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**PARKING SYSTEM AGREEMENT**

by and between

**THE METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON COUNTY**

and

**LAZ PARKING GEORGIA, LLC, A GEORGIA, LIMITED LIABILITY COMPANY**

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THIS PARKING SYSTEM AGREEMENT (this “Agreement”) is made and entered into as of the date it is approved by all parties and filed in the Metropolitan Clerk’s office (“Effective Date”), by and between THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, a political subdivision of the State of Tennessee, by and through the Metropolitan Traffic and Parking Commission (“Metro”) and LAZ Parking Georgia, LLC, a Georgia, Limited Liability Company (“Parking Company”).

## RECITALS

WHEREAS, Section 11.907 of the Charter provides the following as to the Commission:

Sec. 11.907. - Management and control of parking meters, garages and other traffic facilities.

The commission shall have power to control and manage parking facilities in any metropolitan street or road, including the installation of parking meters or other necessary equipment in connection therewith. The commission shall prescribe and may revise a schedule of service charges in connection with the use of parking meters, a copy of which schedule shall be kept on file and subject to public inspection at the office of the commission and at the office of the metropolitan clerk.

The commission shall also have control and management of any public parking garage or other traffic facilities, and with the acquisition, construction and establishment of the same. The commission may enter into management and/or lease agreements with private operators to operate the parking facilities owned by the metropolitan government. The commission is authorized to collect rents, fees or other charges for such parking garage and other traffic facilities as it may operate and manage.

All moneys collected by the commission from parking meters, or any other service charges, shall be remitted by it to the metropolitan treasurer, who shall keep such moneys in a separate account earmarked for traffic and parking improvements; and

WHEREAS, Metro determined that its on-street metered parking program needed modernization, was not as efficient and convenient as it could be, and did not obtain for Metro all the value that it was possible to obtain from this program, for funding traffic and parking improvements, as described in the Charter language quoted above; and

WHEREAS, because the Charter language quoted above authorizes Metro to enter into management and/or lease agreements with private operators to operate parking facilities such as on-street metered parking within the rights of way of Metro, this effectively authorizes Metro to utilize a competitive proposal procurement process to contract with an agent to operate the on-street metered parking within the rights of way of Metro on Metro's behalf; and

WHEREAS, Metro accordingly issued an RFQ # 98182 for Smart Parking (the "RFQ"); and

WHEREAS, on December 30, 2021 Metro issued an intent to award for the RFQ to Parking Company and conducted final contract negotiations with Parking Company which have concluded with this Agreement; and

WHEREAS, the Commission has approved the execution and delivery of this Agreement; and

WHEREAS, Metro Council has adopted an ordinance authorizing the execution and delivery of this Agreement; and

WHEREAS, Metro has established a Metered Parking System (as defined herein) and Metro desires to grant Parking Company the right, as Metro's agent, to operate, maintain and improve the Metered Parking System on Metro's behalf for the Term (as defined herein) of this Agreement, all as hereinafter provided; and

WHEREAS, Parking Company desires to accept the responsibility, as Metro's agent, to operate, maintain and improve the Metered Parking System on Metro's behalf for the Term of this Agreement, all as hereinafter provided and in consideration of the payments to be made to Parking Company hereunder; and

WHEREAS, the Parties intend that Metro will maintain ownership of the Metered Parking System and the right, in Metro's sole discretion, to dictate the means, manner and time in which the Metered Parking System will be operated (including whether to implement changes to rates, meters, hours of operation, system regulations, fees, street usage, curb design and maintenance, meter closures and other key public policy matters).

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the Parties hereto, intending to be legally bound, agree as follows:

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**Section 1.1. Definitions.** Unless otherwise specified or the context otherwise requires, for the purposes of this Agreement the following terms have the following meanings:

"Additional Metered Parking Spaces" is defined in Section 7.6(b).

"Affected Property" means (i) any public or private property, including a park, highway, street, road, roadway, railroad, rail or other transit way, and any ancillary facilities related to any of the foregoing, under the jurisdiction and control of Metro, any other Governmental Authority or any other Person that is located above, within the boundaries of, or intersects with the Metered Parking Spaces or any part thereof and (ii) each Metered Parking Space.

"Affiliate", when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries has a Ten Percent (10%) or more voting or economic interest in such specified Person or controls, is controlled by or is under common control with (which shall include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person shall be deemed to be controlled by another Person, if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (for purposes of this definition, a managed fund or trust shall be deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust shall be deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

"Agreement" is defined in the preamble to this Agreement (including all Schedules referred to herein), as amended from time to time in accordance with the terms hereof.

"Annual Meeting" means the first Quarterly Meeting occurring after the first of January of each Year.

“Approval”, “Approved”, “Approves”, “Approved by Metro” and similar expressions mean approved or consented to by Metro in accordance with the provisions of Section 1.15.

“Audit and Review” and similar expressions mean, with respect to any matter or thing relating to the (i) Metered Parking System, the Metered Parking System Operations or this Agreement, the performance by or on behalf of Metro of such reviews, investigations, inspections and audits relating to such matter or thing as Metro may reasonably determine to be necessary in the circumstances, and (ii) all deposits to and disbursements from the Metro Account, or such other such matters relating to Metro’s administration of the Metro Account as Parking Company may reasonably determine to be necessary or appropriate, in each case conducted in accordance with applicable United States industry accepted practices, if any, or as required by Law, but in accordance with the provisions of this Agreement.

“Authorization” means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization or other requirement of any Person that applies to the Metered Parking System or is reasonably required from time to time for the Metered Parking System Operations.

“Bank Rate” means the six-month daily yield curve rate for U.S. Treasury (or any successor rate thereto) as most recently reported by the U.S. Department of the Treasury (or any successor thereof) on or before the date of determination or if such yield curve is no longer available, a replacement rate reasonably acceptable to Parties or, absent agreement, by dispute resolution in accordance with Article 18.

“Bid Date” means the date on which bidders submit their proposals in round 2 of the procurement.

“Breach Notice” is defined in Section 19.12(c).

“Business Day” means any Day that is neither a Saturday, a Sunday nor a Day observed as a holiday by Metro, the State or the United States government.

“Business Plan” means a Document delivered by Parking Company on or before Thirty (30) days after the Effective Date, Approved by Metro as part of this Agreement and then updated and Approved from time to time by Parking Company and Metro as detailed herein. Parking Company will operate the Metered Parking System in accordance with the Business Plan and all actions taken by Parking Company in accordance with the Business Plan are hereby Approved and overseen by Metro. The Business Plan will at all times detail how Parking Company will achieve Metro’s goals under this Agreement while operating the Metered Parking System. The Business Plan will be updated from time to time and Approved by Metro as provided for herein. The Business Plan, as updated from time to time, must include: (i) an executive summary providing an overview of the Metered Parking System performance to date and a narrative description of the business, operations, and activities to be implemented to generate Project Revenue, including any Project Enhancements; (ii) Parking Company’s marketing strategy and communications strategy for the Metered Parking System (to include but not be limited to stakeholder outreach and public education and outreach); (iii) the Operations Plan to include customer service and a Project Operating Expense budget for the next Year and forecasted for the succeeding five Years; (iv) the Capital Improvements/Technology Plan (to include but not be limited to data collection and reporting); (v) Parking Company’s business plan for generating Other Project Revenues; (vi) financial forecasts for Project Revenue, including Metered Parking System Revenues and Other Project Revenue; (vii) an overview of the industry and market, including opportunities and competitive challenges; and (viii) the metrics by which the Parking Company will aim to fulfill Metro’s directives. The Business Plan must at all times provide for the operation of the Metered Parking System in accordance with the Operating Standards and the Parking Rules and Regulations. The initial Business Plan is attached hereto as Schedule 11 and is hereby Approved by Metro.

“Capital Improvements” means assets commonly referred to as capital investments (assets with a useful life longer than a year) and dedicated for use solely in connection with the Metered Parking System.

“Capital Improvements Plan” means the plan and rough specifications for repairs (as opposed to ordinary maintenance), installation, removal or replacement of Capital Improvements in the Metered Parking System, including a regularly updated capital expense budget for the Term, and schedule for Project Capital Expense investments with planned start and end dates.

“Cash Revenue” means Metered Parking System Revenues for parking in the Metered Parking System where payment for same is made in cash.

“Casualty Cost” is defined in Section 13.3.

“Change in Control” means, with respect to any Person, whether accomplished through a single transaction or a series of related or unrelated transactions and whether accomplished directly or indirectly, either (i) a change in ownership so that Fifty Percent (50%) or more of the direct or indirect voting or economic interests in such Person is transferred to a Person or group of Persons acting in concert, (ii) the power directly or indirectly to direct or cause the direction of management and policy of such Person, whether through ownership of voting securities, by contract, management agreement, or common directors, officers or trustees or otherwise, is transferred to a Person or group of Persons acting in concert or (iii) the merger, consolidation, amalgamation, business combination or sale of substantially all of the assets of such Person; provided however, that notwithstanding anything to the contrary set forth in this definition (A) clauses (i) and (ii) above shall apply to transactions in shares of a publicly traded company or other transactions involving a publicly traded company only if they cause such company to no longer be a publicly traded company, (B) Transfers of direct or indirect ownership interests in Parking Company or the Operator (as applicable) between or among Persons that are Affiliates (including funds or similar entities managed by such Persons) shall not constitute a “Change in Control” for the purposes of this Agreement, (C) Transfers of shares of Parking Company or its direct or indirect parent pursuant to an initial public offering on the New York Stock Exchange, NASDAQ, London Stock Exchange or comparable securities exchange shall not constitute a “Change in Control,” (D) Transfers of direct or indirect ownership interest in Parking Company by any Equity Participant or its beneficial owner(s) to any Person shall not constitute a “Change in Control” so long as the Equity Participants or their beneficial owner(s) having, in the aggregate, more than Fifty Percent (50%) direct or indirect ownership interest in Parking Company as of the date of this Agreement retain, in the aggregate, more than Fifty Percent (50%) of the rights to elect directors, officers and managers of Parking Company.

“Charter” means the Charter of the Metropolitan Government of Nashville and Davidson County, Tennessee.

“Claim” means any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto which may give rise to a right to indemnification by Operator under Section 12.1.

“Commission” or “Parking Commission” means the Metropolitan Traffic and Parking Commission.

“Consent” means any Approval, consent, ratification, waiver, exemption, franchise, license, permit, novation, certificate of occupancy or other Authorization, of any Person, including any Consent issued,

granted, given, or otherwise made available by or under the authority of any Governmental Authority or pursuant to any applicable Law.

“Consultant” means (i) a consulting firm having experience in the operation and management of metered parking systems jointly appointed by the Parties and (ii) with respect to a technical dispute under Section 18.7, any individual having experience in the operation and management of metered parking systems that is selected by such consulting firm to perform the professional services required to be performed by the Consultant under Section 18.7.

“Contractor” means, with respect to a Person, any contractor with whom such Person contracts to perform work or supply materials or labor in relation to the Metered Parking System, including any subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Contractor. For the avoidance of doubt, neither the Parking Company nor Operator (if other than Parking Company) shall be a Contractor in the performance of its activities and obligations required by this Agreement, with both, instead, performing such activities and obligations as agents for Metro.

“Day” means a calendar day, beginning at 12:01 a.m. in the central time zone of the United States coinciding with the calendar day.

“Delay Event” means (i) an event of Force Majeure, (ii) a failure to obtain, or delay in obtaining, any Authorization from a Governmental Authority (provided that such failure or delay could not have been reasonably prevented by technical and scheduling or other reasonable measures of Parking Company), (iii) the enactment of a new Law or the modification, amendment or change in enforcement or interpretation of a Law (including a change in the application thereof) by any Governmental Authority (other than Metro) arising after the Bid Date, (iv) the enactment of a new Law or the modification, amendment or change in enforcement or interpretation of a Law (including a change in the application thereof) by Metro arising after the Bid Date that relates specifically to the Metered Parking System, (v) a delay caused by the performance of works (including the activities authorized by Section 3.7) carried out by a Governmental Authority or any utility or railway operator or Person not acting under the authority or direction of, or pursuant to a contract, sublease or any other agreement or arrangement with Parking Company or the Operator, (vi) a delay caused by a failure by Metro to perform or observe any of its covenants or obligations under this Agreement, or (vii) a delay caused by the presence in, on, under or around the Metered Parking Spaces of Hazardous Substances, which in each case results in or would result in a delay or interruption in the performance by Parking Company of any obligation under this Agreement; except to the extent that the consequences of such delay or the cause thereof is specifically dealt with in this Agreement or arises by reason of (A) the negligence or intentional misconduct of Parking Company or its Representatives, (B) any act or omission by Parking Company or its Representatives in breach of the provisions of this Agreement or (C) except as contemplated by Section 5.1, lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of Parking Company. For the avoidance of doubt, a Delay Event shall not include any of the exceptions listed in clauses (i) through (iv) of the definition of Force Majeure.

“Delay Event Dispute Notice” is defined in Section 14.1(e).

“Delay Event Notice” is defined in Section 14.1(e).

“Delay Event Remedy” is defined in Section 14.1(d).

“Designated Senior Person” means such individual who is designated as such from time to time by each Party for the purposes of Article 18 by written notice to the other Party.

“Direct Claim” means any Claim against Parking Company that does not result from a Third-Party Claim.

“Disputed Amounts” is defined in Section 8.5(a).

“Document” is defined in Section 1.15(b).

“Early Termination Option” is defined in Article 17.

“Effective Date” as defined in the preamble.

“Encumbrance” means any mortgage, lien, judgment, execution, pledge, charge, security interest, restriction, easement, servitude, option, reservation, lease, claim, trust, deemed trust or encumbrance of any nature whatsoever, whether arising by operation of Law, judicial process, contract, agreement or otherwise created.

“End Date” means the date on which this Agreement expires or is terminated.

“Enforcement Policies and Procedures” means the policies and procedures established by Metro in accordance with the terms of this Agreement, for the administration and enforcement of the Parking Rules and Regulations that are designed to deter Parking Violations, including procedures for the issuance and collection of parking tickets and citations for violations of the Parking Rules and Regulations with respect to the Metered Parking Spaces and Residential Permits, by such means as permitted by Law.

“Environment” means soil, surface waters, ground waters, land, stream sediments, surface or subsurface strata and ambient air.

“Environmental Laws” means any Laws applicable to the Metered Parking System regulating or imposing liability or standards of conduct concerning or relating to the regulation, use or protection of human health or the Environment.

“Equity Participant” means any Person who holds any shares of capital stock, units, partnership or membership interests, other equity interests or equity securities of Parking Company.

“Exempt Persons” means Persons exempted by Law from paying Metered Parking Fees otherwise applicable to members of the general public pursuant to the Tennessee Code Annotated, the Metro Code or other applicable law.

“Existing Metered Parking System Equipment” means, as of the time immediately prior to the Effective Date, the Personal Property of Metro used in connection with operations of the Metered Parking System set forth on Schedule 3, which Schedule will include the locations of new Metered Parking Spaces.

“Force Majeure” means any event beyond the reasonable control of Parking Company that delays, interrupts or limits the performance of Parking Company’s obligations hereunder or Parking Company’s use of the Metered Parking System, including an intervening act of God or public enemy, war, invasion, armed conflict, act of foreign enemy, blockade, revolution, act of terror, sabotage, civil commotions, interference by civil or military authorities, condemnation or confiscation of property or equipment by any Governmental Authority, nuclear or other explosion, radioactive or chemical contamination or ionizing radiation, fire, tornado, flooding, earthquake or other natural disaster, riot or other public disorder, epidemic, quarantine restriction, strike, labor dispute or other labor protest, stop-work order or injunction issued by a Governmental Authority, governmental embargo, cyber warfare or cyber security event, except

to the extent that the consequence of such event is otherwise specifically dealt with in this Agreement or arises by reason of (i) the negligence or intentional misconduct of Parking Company or its Representatives, (ii) any act or omission by Parking Company or its Representatives in breach of the provisions of this Agreement, (iii) except as contemplated by [Section 5.1](#), lack or insufficiency of funds or failure to make payment of monies or provide required security on the part of Parking Company or (iv) any strike, labor dispute or other labor protest involving any Person retained, employed or hired by Parking Company or its Representatives to supply materials or services for or in connection with the Metered Parking System Operations or any strike, labor dispute or labor protest pertaining to Parking Company that is not of general application that is caused by or attributable to any act (including any pricing or other practice or method of operation) or omission of Parking Company or its Representatives. For purposes of Force Majeure, Governmental Authority does not include Metro.

“[Governmental Authority](#)” means any court, federal, state, local or foreign government, department, commission, board, bureau, agency or other regulatory, administrative, governmental or quasi-governmental authority.

“[Government Property](#)” (see 11.3(a))

“Gross Revenue” means all revenue collected from the operation and use of the Parking System including but not limited to meter revenue and citation revenue.

“[Guarantor](#)” means an entity that meets the asset and net worth requirements under [Section 10.1](#) and provides the Guaranty outlined in [Section 10.1](#).

“[Guaranty](#)” (section 10.1)

“[Hazardous Substance](#)” means any solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, subject waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Laws or which is classified as hazardous or toxic under applicable Environmental Laws (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

“[Indemnity Agreement](#)” is defined in [Section 12.1](#).

“[Indemnity Payment](#)” is defined in [Section 12.5](#).

“[Information](#)” means any and all information relating to the Metered Parking System Operations.

“[Law](#)” means any order, writ, injunction, decree, judgment, law, ordinance, decision, opinion, ruling, policy, statute, code, rule or regulation of any Governmental Authority.

“[Letter of Credit](#)” means an irrevocable, unconditional, commercial letter of credit, in favor of Metro, in form and content reasonably acceptable to Metro, payable in U.S. dollars upon presentation of a sight draft and a certificate confirming that Metro has the right to draw under such letter of credit in the amount of such sight draft, without presentation of any other Document, which letter of credit (i) is issued by a commercial bank or trust company that is a member of the New York Clearing House Association and that has a current credit rating of A1 or better by Standard & Poor’s Ratings Services and an equivalent credit rating by another Rating Agency (or an equivalent credit rating from at least two nationally recognized Rating Agencies if the named Rating Agency ceases to publish ratings) (or such other commercial bank or trust company reasonably acceptable to Metro and Approved by Metro prior to the

submission of the letter of credit), and (ii) provides for the continuance of such letter of credit for a period of at least one Year or as otherwise provided in this Agreement. The office for presentment of sight drafts specified in the Letter of Credit shall be located at a specified street address within Metro boundaries or other location acceptable to Metro.

“Loss” or “Losses” means, with respect to any Person, any loss, claim, liability, damage, penalty, charge or out-of-pocket and documented cost or expense actually suffered or incurred by such Person, but excluding any punitive, special, indirect and consequential damages and any contingent liability until such liability becomes actual.

“Management Year” is defined as the twelve month period commencing on the Effective Date, or if the Effective Date is not the first day of the month, the first day of the month immediately following the Effective Date and terminating one year thereafter and a similar period for each year during the term hereof.

“Material Adverse Effect” means a material adverse effect on the business, financial condition or results of operations of the Metered Parking System taken as a whole; provided, however, that no effect arising out of or in connection with or resulting from any of the following shall be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the financial services or parking industries generally; (iv) any existing event or occurrence of which Parking Company has actual knowledge as of the Bid Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement (provided that any such action, omission, change by Metro is not materially inconsistent with the Business Plan) or the Transactions contemplated hereby (except for any litigation relating thereto or to this Agreement (or the matters contemplated herein)); and (vi) negligence, intentional misconduct or bad faith of Parking Company or its Representatives.

“Maximum Metered Parking Fee” means the maximum allowable Metered Parking Fee set by Metro as of any date of determination.

“Measurement Period” means a period equal to the preceding two fiscal Quarters.

“Mediator” is defined in [Section 18.3](#).

“Meter Removal Basket” is defined in [Section 7.8](#).

“Metered Parking Activities” means the activities to be performed by Parking Company as Metro’s agent and as grantee of the rights of Parking Company under this Agreement. Metered Parking Activities includes, without limitation, all activities relating to the management, on Metro’s behalf and as Metro’s agent, of the day-to-day operations of the Metered Parking System in accordance with the Transition Plan (fpcontained within the Business Plan as described in Section 2.5(f)), the Business Plan, the Operating Standards, Performance [Metrics](#), and the Parking Rules and Regulations, including: (i) identification, purchase, storage, installation, maintenance, operation and removal of Metered Parking System equipment, materials and services to promote the efficient utilization and profitability of the Metered Parking System; (ii) collection and provision to Metro of data necessary to support issuance by Metro of Parking Violations and performing other activities required of Parking Company hereunder to support the issuance by Metro of Parking Violations, (iii) the collection, as Metro’s agent, of Metered Parking Fees, for deposit into the Parking Company Revenue Account and/or the Metro Account, as

appropriate, (iv) the licensing and contracting for equipment, services, data and systems to optimize the utility of the Metered Parking System and which the Commission approves in accordance with the Business Plan; and (v) such other activities relating to the operation of the Metered Parking System that Metro directs Parking Company to perform under this Agreement from time to time.

“Metered Parking Fee” means the fee charged by Parking Company on Metro’s behalf and as Metro’s agent as consideration for the privilege of parking a motor vehicle or otherwise making use of Metered Parking Spaces.

“Metered Parking Spaces” means those on-street parking spaces or curb areas for which, during periods of time, Metro requires the payment of a Metered Parking Fee for parking a motor vehicle or other use at that space or place for a limited period of time and such designation is effective for all purposes of this Agreement notwithstanding that Exempt Persons using that parking space or place may be exempted from paying the Metered Parking Fee otherwise applicable to members of the general public.

“Metered Parking System” means the Metering Devices, supporting structures, computer systems and software used in connection with the administration of Metered Parking Spaces and the collection of Metered Parking Fees therefrom, and all improvements of any and every kind whatsoever forming a part of and used in connection with the operation and maintenance of the metering system associated with the Metered Parking Spaces (including all Metering Devices but excluding any interest in the streets, sidewalks, paving or similar real property).

“Metered Parking System Assets” means: (i) the Existing Metered Parking System Equipment, (ii) all cash receivables due to Metro in connection with the Metered Parking System existing as of the Effective Date, and (iii) from and after the Effective Date, the Personal Property, whether owned by Metro, the Parking Company or the Operator used in connection with the operations of the Metered Parking System.

“Metered Parking System Contracts” means the agreements to which Metro is a party relating to the operations of the Metered Parking System that are set forth on Schedule 1.

“Metered Parking System Operations” means (i) the operation, management and maintenance of the Metered Parking System, (ii) the issuance, processing and collection of parking tickets or citations for violations of Parking Rules and Regulations with respect to the Metered Parking Spaces and Residential Permits pursuant to this Agreement, and (iii) all other actions relating to the Metered Parking System that are performed by or on behalf of Parking Company as Metro’s agent pursuant to this Agreement.

“Metered Parking System Revenue” means, during the Term, the gross revenues derived from the Metered Parking Fees that Parking Company collects on Metro’s behalf, including both Payment Card Revenues and Cash Revenues.

“Metering Devices” means the parking meters, pay and display stations, electronic metering devices, APIs on mobile phone devices, APIs on automobile dashboards, mobile sensors and other similar devices or measurement systems that may be used from time to time in connection with the Metered Parking System Operations to measure utilization of Metered Parking Spaces, including any shelters used to guard the devices and patrons from the elements utilized by Parking Company and any other future technology that may be used to perform the Metered Parking System Operations.

”Metering Technology” (see 7.2(b)).

“Metro” has the meaning set forth in the introductions paragraph to this Agreement.

“Metro Account” means the segregated account maintained by Metro into which all Project Revenue and Other Project Revenue is deposited in accordance herewith and from which Metro is obligated to disburse or pay any amounts due Parking Company under this Agreement.

“Metro Council” means the Metropolitan Council of the Metropolitan Government of Nashville and Davidson County.

“Metro Default” is defined in Section 15.2(a).

“Metro Directive” means a written order or directive prepared by or on behalf of Metro directing Parking Company, to the extent permitted hereby, to add or perform work in respect of the Metered Parking System in addition to that provided for in this Agreement; provided, however, that no such order or directive may order or direct Parking Company to do any act that could reasonably be expected to violate any applicable Law or cause Parking Company to fail to be in compliance with this Agreement. A Project Enhancement required by Metro under Section 4.5(a) hereof shall constitute a Metro Directive.

“Metro Ordinance” is any ordinance passed by the Metropolitan Council in furtherance of this Agreement and the Metered Parking System.

“Metro Projects” means projects anticipated by Metro that may have an impact on the Metered Parking System Assets as set forth in RFQ# 98182.

“Metro Services” means the services provided by Metro in connection with this Agreement, including the enforcement of traffic and parking regulations, the adjudication of Parking Enforcement cases and the installation or removal of Metered Parking System equipment to the extent required by the Metro Code or Parking Rules and Regulations.

“Net Operating Income” or “NOI” shall mean Gross Revenue minus Operating Expenses.

“Non-Metered Parking Spaces” means parking spaces or areas that do not require a Metered Parking Fee but for which the Parking Company retains the responsibility, as Metro’s agent, for Parking Enforcement for the space or area, including but not limited to unloading/loading zones.

“Notice Period” is defined in Section 12.2(b).

“Offset(s)” is defined in Section 12.9.

“Operating Agreement” means any material agreement, contract or commitment to which Parking Company is a party relating to the Metered Parking System Operations as in force from time to time.

“Operating Agreements and Plans” is defined in Section 3.11.

“Operating Expenses” are defined as all the expenses of managing and operating the parking services Parking Company may purchase/incur as Metro’s agent in accordance with the terms of this Agreement and Business Plan and as set forth in the one-year Approved Budget, a copy of which is attached hereto as Schedule 4 other than expenses of a capital cost. Operating Expenses shall include but shall not be limited to:

- 2) Payments and deposits for unemployment insurance, social security taxes, workers’ compensation insurance, disability benefits, and other similar taxes for on-site Employees directly engaged in the parking operation, but expressly excluding

Parking Company's administrative and clerical staff not directly engaged in the parking services;

- 3) Payroll expenses and applicable payroll taxes, including, but not limited to, vacation pay, sick pay, personal day pay, holiday pay, retirement, pension and health and welfare programs, for on-site Employees directly engaged in the parking services and certain allocations for off-site Employees directly engaged in the parking services;
- 4) An equitable allocation of Insurance premiums to the extent required of Parking Company in this Agreement
- 5) Employee training and safety incentive programs for on-site personnel;
- 6) Payment to independent contractors performing maintenance and repair services in connection with providing the services;
- 7) Costs of purchasing supplies and signs used in providing the services (including capital assets and equipment, which shall become the property of Metro);
- 8) On-site telephone, cellular, and data communication charges to the extent that such charges are directly related to the parking services;
- 9) Fees for license, permits, approvals and bonds required for the parking services, including a charge assessed for the processing of any initial or renewal license application.
- 10) Advertising and promotion costs;
- 11) Sundry items such as uniforms, tickets and janitorial supplies;
- 12) Credit card fees, payroll processing and accounts receivable processing expense;
- 13) Reservation and/or processing fees to third parties;
- 14) Normal maintenance and repairs in connection with the parking services;
- 15) Legal or audit charges directly attributable to the parking services other than those performed by the staff of Parking Company to be requested in writing and if approved in writing in advance by Metro;
- 16) Any transaction, reservation, processing and credit card fees related to ecommerce platforms used within the Metered Parking System or other facilities;
- 17) Costs of special audits performed by Parking Company's staff auditor for the mutual benefit of Metro and Parking Company; provided, however, that the time and manner of the taking of the audit is requested in writing and approved in writing by Metro in advance. Costs qualifying as Operating Expense shall be limited to a mutually agreed upon per diem rate and actual out-of-pocket expenses of the auditor during the period of an approved special audit;

- 18) Costs of recruiting and obtaining criminal and general background checks, including drug screening, on all persons employed to provide parking services;
- 19) Bank Fraud Protection Fees;
- 20) Cost of remote monitoring and
- 21) The cost of compliance with any federal, state or local government Return to Work regulation instituted during the term if this Agreement as a result of the Coronavirus (“Covid-19”) or any other declared Pandemic, including but not limited to hand washing stations, masks, and/or hand sanitizer.

“Operating Standards” means the standards, specifications, policies, procedures and processes that apply to the operation of, maintenance of, rehabilitation of, Capital Improvements to, and handover to Metro of, the Metered Parking System set forth in Schedule 2, including any plans submitted by Parking Company to Metro as required therein. To the extent that any term or provision set forth in Schedule 2 or incorporated by reference in Schedule 2 conflicts with any term or provision specified in this Agreement, then such term or provision of this Agreement shall govern and shall supersede any such conflicting term or provision.

“Operations Plan” means the portion of the Business Plan detailing Parking Company’s operations plan for the Metered Parking System contained in the original Business Plan and updated from time to time as part of the Business Plan. The Operations Plan will detail the process, timelines and procedures by which Parking Company intends to operate the Metered Parking System on Metro’s behalf and as Metro’s agent, including providing processes for taking parking spaces temporarily out of service and the day-to-day operations of Metered Parking Activities, including, but not be limited to, setting forth the time periods necessary for placement and removal of taking parking spaces temporarily out of service; the notice to be provided for Temporary Closures upon installation of multi-space metered parking devices. Should the scope of operations performed by Parking Company be expanded, the expectation is that the Operations Plan would be expanded to include additional services, such as the following: practices and procedures for the issuance of right-of-way permits, including the permitting and regulation of street lane vacations for construction use; and practices and procedures for the issuance and regulation of valet parking right-of-way permits, provided that any such permit shall be subject to the Approval of Metro. The Operations Plan will include intended staffing, procedures for Metered Parking Fee collection, and all other processes and procedures to be implemented to run the Metered Parking System on behalf of Metro, including customer service, user education, stakeholder engagement.

“Other Project Revenue(s)” means other revenues derived from Parking Company’s work under this Agreement, including advertising revenue as described in Section 3.15, valet space management fees, fees from loading zones, dynamic or congestion pricing (if any), tolling fees (if any), decal fees, pay-by-app transaction fees, Special Event fees, mobility management services, curb management services and other revenues derived from the Metered Parking Activities and from the Metered Parking System Assets.

“Parking Company” is defined in the preamble to this Agreement.

“Parking Company Default” is defined in Section 15.1(a).

“Parking Company Interest” means the rights and obligations of Parking Company under this Agreement.

“Parking Company Revenue Account” shall have the meaning described in Section 2.2(a).

“Parking Company Request” means a written request in respect of the Metered Parking System prepared by or on behalf of Parking Company and addressed to Metro seeking to make a change in the dimensions, character, quality or location of any part of the Metered Parking System; provided, however, that Parking Company Request need not be submitted in connection with operations, maintenance or repair of the Metered Parking System in the ordinary course or any other aspects of Metered Parking System Operations Parking Company is authorized to perform as Metro’s agent under this Agreement or any Business Plan, including any modification or change to the Operating Standards pursuant to Section 6.2 and Section 6.3.

“Parking Enforcement” means the issuance of parking tickets or citations for violations of (i) the Parking Rules and Regulations with respect to the Metered Parking Spaces, Non-Metered Parking Spaces and Residential Permits and (ii) other Laws of Metro with respect to parking meters in effect from time to time, in each case in accordance with the Enforcement Policies and Procedures set forth in the Operating Standards.

“Parking Enforcement Patrol” or “Parking Enforcement Patrol Officers” or “Parking Patrol Officers shall have the meaning of these terms as they are used in the Metropolitan Code of Laws Section 2.44.070.

“Parking Rights and Obligations” means the rights and obligations of Parking Company relating to the Metered Parking System provided for herein.

“Parking Rules and Regulations” means the rules and regulations issued by the Metro and governing the Metered Parking System.

“Parking Taxes” means taxes imposed on customers of the Metered Parking System by any Governmental Authority pursuant to any tax imposed solely on the privilege of parking a motor vehicle on a public street in Metro, but not including Taxes of general application such as a general sales tax or taxes applicable to both on-street and off-street parking.

“Parking Violations” means citations for violations of Parking Rules and Regulations with respect to the Metered Parking Spaces, Non-Metered Parking Spaces and Residential Permits, provided that Metro may elect in writing to add other types of violations during the Term.

“Parking Violations Revenue” (see 3.2(f))

“Party” means a party to this Agreement and “Parties” means both of them.

“Payment Card Revenue” means Project Revenues from the Metered Parking System derived from payments for parking made by payment card.

“Periods of Operation” means, with respect to each Metered Parking Space, the Days and the period or periods of time during each Day that Metro permits the parking of a motor vehicle in that Metered Parking Space and requires the payment of a Metered Parking Fee for use of that Metered Parking Space.

“Permanent Removal” is defined in Section 7.2(c).

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“Personal Property” means all tangible and intangible personal property (including inventories) wherever located that is included in or used in connection with the Metered Parking System, but excluding (a) any technology or equipment leased or licensed from unaffiliated third parties or (b) utilized by Parking Company, Operators, Contractors or their Affiliates for purposes unrelated to the Metered Parking System or in common with other business activities unrelated to the Metered Parking System.

“Project Capital Expenses” means all capital expenses required to purchase and install Capital Improvements that are required to maintain or improve the Metered Parking System.

“Project Enhancement” means any extensions of, additions to, or modifications to the Metered Parking System Assets undertaken by Parking Company as Metro’s agent and as a result of an Agreement with Metro in accordance with Section 4.5, including (but not limited to) any future curbside management policies.

“Project Operating Expenses” means all ordinary operating costs relating to the Metered Parking System Operations. Project Operating Expenses shall specifically exclude all Project Capital Expenses.

“Project Revenue” means Metered Parking System Revenue.

“Public Information” See 11.3(b)

“Quarter” means each quarter of each Year.

“Quarterly Meeting” is defined in Section 8.5.

“Quarterly Settlement Date” means the last Business Day of the Month following the end of each Quarter or such earlier date in that month as is from time to time agreed by Parking Company and Metro at the Quarterly Meeting.

“Rating Agency” means any of S&P Global Ratings, Moody’s Investors Service, Inc. or Fitch Investors Service, Inc. or any similar entity or any of their respective successors.

“Replacement Company” means the party designated by Metro to assume all responsibilities for Metered Parking System Operations upon the termination of this Agreement, which may be Metro, Operator, any Contractor to Parking Company or any other party designated by Metro by notice to Parking Company.

“Replacement Metered Parking Space” (see 7.2(d))

“Representative” means, with respect to any Person, any director, officer, employee, official, partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

“Required Coverages” is defined in Section 13.1.

“Reserved Metered Parking Spaces” is defined in Section 7.6(a).

“Residential Permits” means residential parking permits for on-street parking.

“Restoration” (see Section 13.3)

“Reversion Date” means the Business Day immediately following the End Date.

“Schedule” means a schedule attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

“Schedule of Parking Fees” means the Maximum Metered Parking Fee schedule for Metered Parking Spaces set forth in Schedule 5.

“Special Event” means any event listed on Schedule 7, for which Metro has agreed to offer free or reduced Metered Parking Spaces. Any event that is not listed on Schedule 7 will be considered a Temporary Closure. Metro will have the right to adjust Schedule 7 to include any new or replaced Special Event for public purposes such as holiday parades, sports celebrations, sports competitions and military deployments or homecomings, and political conventions.

“State” means the State of Tennessee.

“State Roads” means those roadways located in Metro that are owned by, or are under the jurisdiction of, the State.

“Surviving Contracts” is defined in Section 2.6(c).

“Tax” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

“Technology Plan” (see Business Plan definition (iv) and Section 3.2(h))

“Temporary Closure” means any interruption to, or any suspension of, Metered Parking System Operations by Metro, with respect to a Metered Parking Space during the Period of Operation of such Metered Parking Space established by Metro due to street closures, the closure of a street to vehicular traffic, emergency parking bans, weather related closures, sidewalk closures related to building construction, sidewalk construction or repair, street construction or repair, utility work and similar activities; provided, however, an interruption or suspension pursuant to a Special Event shall not be considered a Temporary Closure.

“Temporary Closure Fee” means the fees related to a Temporary Closure as set forth in Schedule 5.

“Term” means the duration of the rights and obligations of Parking Company under this Agreement as specified in Section 2.1.

“Third-Party Claim” means any Claim asserted against Metro or any of its Representatives, or against the Metered Parking System Assets or Metered Parking System Revenue, by any Person who is not

a Party or an Affiliate of a Party, and for which Parking Company, must indemnify Metro or such Representative pursuant to Section 12.1.

“Transaction” is defined in Section 2.1.

“Transfer” means to sell, convey, assign, lease, sublease, mortgage, encumber, transfer or otherwise dispose of.

“Transferee” means any Person who obtains Parking Company Interest pursuant to a Transfer.

“Year” means the calendar year.

“Zone” or “Zones” is defined in Schedule 5.

**Section 1.2. Number and Gender.** In this Agreement, words in the singular include the plural and vice versa, and words in one gender include all genders.

**Section 1.3. Headings.** The division of this Agreement into Articles, Sections and other subdivisions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

**Section 1.4. References to this Agreement.** The words “herein,” “hereby,” “hereof,” “hereto” and “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular portion of it. The words “Article,” “Section,” “paragraph,” “sentence,” and “clause” mean and refer to the specified article, section, paragraph, sentence, clause or schedule of or to this Agreement.

**Section 1.5. References to Any Person.** A reference in this Agreement to any Person at any time refers to such Person’s permitted successors and assignees.

**Section 1.6. Meaning of Including.** In this Agreement, the words “include,” “includes” or “including” mean “include without limitation,” “includes without limitation” and “including without limitation,” respectively, and the words following “include,” “includes” or “including” shall not be considered to set forth an exhaustive list.

**Section 1.7. Meaning of Discretion.** In this Agreement, the word “discretion” with respect to any Person means the reasonable discretion of such Person.

**Section 1.8. Meaning of Notice.** In this Agreement, the word “notice” means “written notice,” unless specified otherwise.

**Section 1.9. Consents and Approvals.** Unless specified otherwise, wherever the provisions of this Agreement require, provide for or permit an Approval or Consent by either Party, such Approval or Consent, and any request therefor, must be in writing (unless waived in writing by the other Party).

**Section 1.10. Trade Meanings.** Unless otherwise defined herein, words or abbreviations that have well-known trade meanings are used herein in accordance with those meanings.

**Section 1.11. Laws.** Unless specified otherwise, references to a Law are considered to be a reference to (i) such Law as it may be amended from time to time, (ii) all regulations and rules pertaining to or promulgated pursuant to such Law, (iii) the successor to the Law resulting from recodification or

similar reorganizing of Laws and (iv) all future Laws pertaining to the same or similar subject matter. Nothing in this Agreement shall fetter or otherwise interfere with the right and authority of Metro to enact, administer, apply and enforce any Law. Parking Company shall not be entitled to claim or receive any compensation as a result of the enactment, administration, application or enforcement of any Law.

**Section 1.12. Currency.** Unless specified otherwise, all statements of or references to dollar amounts or money in this Agreement are to the lawful currency of the United States of America.

**Section 1.13. Generally Accepted Accounting Principles.** All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted accounting principles in the United States of America, consistently applied.

**Section 1.14. Calculation of Time.** For purposes of this Agreement, a period of Days shall be deemed to begin on the first Day after the event that began the period and to end at 5:00 p.m. (Central Time) on the last Day of the period. If, however, the last Day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m. (Central Time) on the next Business Day.

**Section 1.15. Approvals, Consents and Performance by Metro.**

(a) *Procedures.* Wherever the provisions of this Agreement require or provide for or permit an Approval or Consent by Metro of or to any action, Person, Document, or other matter contemplated by this Agreement, Parking Company shall seek such Approval or Consent through the Person designated in Section 8.6(a). Metro shall have the right to require the submission of reasonable supporting documentation or other information in connection with a request for Approval or Consent. Metro will respond to requests for Approval or Consent within a reasonable time, taking into account the urgency and complexity of the request. Nothing herein shall be construed as a limitation on the authority of the Metro Council or the Commission to approve or consent where required by Law, in Metro's reasonable judgment.

(b) *Approved Documents.* Subject to the other provisions hereof, wherever in this Agreement an Approval by Metro is required with respect to any document, proposal, certificate, plan, drawing, specification, contract, agreement, budget, Schedule, report or other written instrument whatsoever (a "Document"), following such Approval such Document shall not be amended, supplemented, replaced, revised, modified, altered or changed in any manner whatsoever without obtaining a further Approval in accordance with the provisions of this Section 1.15.

**Section 1.16. Incorporation of Schedules.** The following attached Schedules are made a part of this Agreement:

- Schedule 1 Metered Parking System Contracts
- Schedule 2 Operating Standards
- Schedule 3 Metered Parking System Assets
- Schedule 4 [Reserved]
- Schedule 5 Parking Fees
- Schedule 6 [Reserved]
- Schedule 7 Special Events
- Schedule 8 [Reserved]
- Schedule 9 [Reserved]
- Schedule 10 Capital Improvements

Schedule 11	Business Plan
Schedule 12	Performance <b>Metrics</b>
Schedule 13	Key Performance Indicators
Schedule 14	Lease of Premises
Schedule 15	Fee Structure for Reimbursement if Parking Contractor's Employees are used for Special Events

**Section 1.17. Interpretation of Agreement.** The following documents are included as part of this Agreement. In the event of any conflict or inconsistency between the Articles of this Agreement and the following documents, the conflict or inconsistency will be resolved by applying the following order of document precedence, from highest to lowest:

- (a) any properly executed amendment to this Agreement (most recent with first priority);
- (b) the Articles of this Agreement and Definitions;
- (c) the Schedules to this Agreement;
- (d) the solicitation documentation for RFQ# 98182 and affidavit(s) (all made a part of this contract by reference); and
- (e) Parking Company's responses to the solicitation.

**ARTICLE 2  
THE TRANSACTION; COVENANTS**

**Section 2.1. Grant Right to Provide Metered Parking Activities and Use of Metered Parking System Assets.** Upon the terms and subject to the conditions of this Agreement, effective at the Effective Date: (a) Metro shall engage Parking Company, on an exclusive basis for and during the term commencing on the Effective Date and expiring at 11:59 p.m. on the sixtieth month following the Effective Date (or such later date as may be required to effect a Delay Event Remedy but subject to earlier termination as provided in this Agreement) (the "Term") to perform the Metered Parking Activities in exchange for the right to receive the payments specified in **Section 2.2** and elsewhere in this Agreement; and (b) Parking Company shall accept such role in accordance with the terms hereof, with ownership of the Existing Metered Parking System Equipment retained by Metro (collectively, the "Transaction"). For the avoidance of doubt, and notwithstanding any statements in this Agreement that could be interpreted to the contrary, Parking Company shall perform the Metered Parking Activities during the Term of this Agreement in its capacity as Metro's agent and subject to Metro's direction, supervision, and control.

**Section 2.2. Payments and Flow of Funds.**

- (a) *Revenues from Metered Parking System.* Parking Company covenants that it will use methods generally accepted in the parking industry to collect or cause to be collected all of the gross receipts from the operation and use of the Metered Parking

System. All Gross Revenue received from the Metered Parking System shall be deposited by the Parking Company in an account owned by Metro (“the Metro Account.”)

Payments shall be disbursed from the Metro Account as follows:

(a) Parking Company shall pay all Operating Expenses;

(b) Beginning on July 15, 2023, and continuing on the 15<sup>th</sup> day of each and every month thereafter Metro shall then be paid the sum of \$166,666.66 (1/12 of the \$2 million in revenue) guaranteed to Metro. At the end of the year, if Metro has not received its \$2 million in guaranteed revenue through these payments, Parking Company shall cut Metro a check for the difference.;

(c) Parking Company shall then be paid a monthly management fee as follows:

<b>Year</b>	<b>Management Fee</b>
1	\$60,000
2	\$75,000
3	\$90,000
4	\$105,000
5	\$120,000

*Payments to Parking Company.* [This section will set forth the payment structure for the Parking Company consistent with the contract awardee’s bid, subject to the condition that first priority for payment shall be \$2 million in annual guaranteed revenue to Metro.]

(d) Parking Company’s monthly report to Metro listing Gross Revenues and Operating Expenses generated by the Metered Parking System in the preceding calendar month (“Monthly Report”) is to be submitted by Parking Company for each month of the term hereof by the tenth (10<sup>th</sup>) day of the next succeeding calendar month.

(e) Upon execution of this Agreement, Metro shall deposit in the Metro Account an “Operating Advance” equal to three (3) months of estimated Operating Expenses based on Business Plan Operating Budget. The Operating Advance shall be used by Parking Company to pay monthly Operating Expenses. The amount of the Operating Advance shall be adjusted not less frequently than annually, as required, as agreed to by the parties to cover increases in Operating Expenses. Upon termination of this Agreement, Metro shall be entitled to retain the remaining balance of the Operating Advance after the payment of all Operating Expenses. If the Gross Revenue for any

month is insufficient to make the payments required under subparagraphs (a), (b) and (c) above, Metro agrees to deposit in the Metro Account the amount of such deficit within thirty (30) days after receipt of Parking Company's report. In the event Metro fails to do so within said thirty (30) day period, and Metro does not remedy such failure within five (5) days of receipt of written notice from Parking Company, then Parking Company shall have the right to terminate this Agreement with immediate effect. Within thirty (30) days of such termination, Metro shall remit to Parking Company the full amount of any non-reimbursed Operating Expenses paid by Parking Company. "Additional Performance Fee". In addition to the forgoing, Parking Company shall be paid an Additional Performance Fee" of \$30,000.00 for each Management Year at the end of the year based on performance measures as established in Schedule 13.

### **Section 2.3. Termination.**

(a) *Termination.* This Agreement may be terminated at any time:

(i) by mutual consent of Metro and Parking Company in a written instrument;

(ii) by either Metro or Parking Company, upon notice to the other Party, if any Governmental Authority of competent jurisdiction shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the Transaction, and such order, decree, ruling or other action has become final and nonappealable; *provided; however*, that the right to terminate this Agreement under this Section 2.3(a)(ii) shall not be available to any Party whose failure to comply with any provision of this Agreement or other conduct has been the cause of, or results in such action;

(iii) by either Metro or Parking Company, as otherwise provided in this Agreement.

(b) *Effect of Termination.* In the event of termination of this Agreement by either Metro or Parking Company as provided in Section 2.3(a), this Agreement shall forthwith become void and there shall be no liability or obligation on the part of Metro or Parking Company or their respective Representatives.

**Section 2.4. Execution and Deposit.** If approved by Metro Council Metro shall fully execute this Agreement and file it with the Metropolitan Clerk.

### **Section 2.5. Covenants.**

(a) *Cooperation.* The Parties shall cooperate with each other.

(b) *Reasonable Efforts.* Each Party shall use all reasonable efforts (i) to take, or cause to be taken, all actions necessary to comply promptly with all requirements under this Agreement and all legal requirements that may be imposed on such Party to consummate the Transaction as promptly as practicable, including, but not limited to, making any necessary filings, and (ii) to obtain (and to cooperate with the other Party to obtain) any Consent of any Governmental Authority or any other public or private third-party which is required to be obtained or made by such Party in connection with the

consummation of the Transaction. Each Party shall promptly cooperate with and promptly furnish information to the other in connection with any such efforts by, or requirement imposed upon, any of them in connection with the foregoing.

(c) *Metered Parking System Contracts.* The Metered Parking System Contracts are listed on Schedule 1. Prior to the Effective Date, Metro shall designate any Metered Parking System Contracts that Parking Company shall administer on behalf of Metro from and after the Effective Date (the “Surviving Contracts”). Parking Company shall not assume any liability prior to the Effective Date for the Surviving Contracts. All other Metered Parking System Contracts shall be terminated by Metro, effective at the Effective Date or as soon thereafter as permitted under the terms of the Metered Parking System Contract. Parking Company will not assume any liability relating to any Metered Parking System Contract terminated by Metro on the Effective Date (including any liability resulting from the termination thereof).

(d) *Amendment and Supplement of Schedules.* Prior to the Effective Date, Metro may supplement or amend the Schedules hereto, including one or more supplements or amendments to correct any matter that would constitute a breach of any representation, warranty, covenant or obligation contained herein.

(e) *Access to Information.* Metro shall (i) give Parking Company and its Representatives reasonable access to the Metered Parking System during normal business hours and on reasonable notice, subject to Metro’s policies and regulations regarding safety and security and any other reasonable conditions imposed by Metro, (ii) permit Parking Company and its Representatives to make such inspections as they may reasonably request and (iii) furnish Parking Company and its Representatives with such financial and operating data and other Information that is available with respect to the Metered Parking System as they may from time to time reasonably request. Parking Company shall hold and will cause its Representatives to hold in strict confidence all Documents and Information concerning the Metered Parking System. After the Effective Date, Parking Company shall at the request of Metro, in connection with claims or actions brought by or against third parties based upon events or circumstances concerning the Metered Parking System, (A) provide reasonable assistance in the collection of Information or Documents and (B) make Parking Company’s employees available when reasonably requested by Metro.

(f) *Transition.* The Parties shall cooperate with each other to ensure the orderly transition of the operation, management, and maintenance of, and the responsibility for charging and collecting revenue in connection with, the Metered Parking System on the Effective Date, all of which will be performed by Parking Company in accordance with this Agreement and as an agent for Metro. The transition of operations of the Metered Parking System to Parking Company as Metro’s agent will occur in accordance with the Transition Plan incorporated within Parking Company’s Business Plan as updated by Metro and Parking Company to achieve the objectives outlined in the preceding sentence. Prior to and following the Effective Date, Parking Company and Metro will jointly cooperate to finalize and implement the Transition Plan with the goal of assuring uninterrupted availability of the Metered Parking System. Metro shall take all efforts as may be necessary in order to ensure such orderly transition and provide to Parking Company all reasonably requested Information and Documents related to the Metered Parking System Operations.

(g) *Casualty Loss Prior to Closing.* If prior to the Effective Date, a material casualty Loss, destruction or damage to the Metered Parking System has occurred and this Agreement has not been terminated under Section 2.3(a), then Metro shall either (i) promptly and diligently repair and rebuild the affected parts of the Metered Parking System to restore them to at least the same condition in which they were before the occurrence of such casualty Loss, destruction or damage or (ii) authorize Parking Company to repair the Metered Parking System and assign to Parking Company all insurance and other proceeds (if any) payable by third-party insurers or other third parties in respect of such casualty Loss, destruction or damage and enforce (with the cooperation of Parking Company) all of its rights, remedies and privileges under any applicable insurance policies with third-party insurers; provided that if no insurance exists or such insurance proceeds are not sufficient to repair and rebuild the affected parts of the Metered Parking System to its prior condition, then Metro shall reimburse Parking Company for that amount representing the difference between the cost to repair and the amount of any insurance proceeds.

(h) *Operational Matters.* Metro shall consult with Parking Company with respect to any Metered Parking System operation matters of a material nature prior to the Effective Date.

**Section 2.6. Intended Treatment for Tax Purposes.** The Parties intend that the Metered Parking Fees will be exempt from State and local option sales taxes given that they are charges made by Metro as a political subdivision of the State of Tennessee for on-street parking, as contemplated by Tennessee Code Annotated § 67-6-205(c)(2). Parking Company and Metro agree that Parking Company has no direct claim on any Metered Parking Fees independent of Metro's claim on the Metered Parking Fees. If for any reason State and local option sales Taxes are applicable to or imposed on Metered Parking Fees, Parking Company will be entitled to adjust the Business Plan accordingly, including by implementing processes and procedures for calculating and reporting such sales taxes and to pay those sales taxes. The addition of sales Taxes, if any, to the Metered Parking Fee charged to users will require approval by the Commission.

**Section 2.7. Deliveries.** On the Effective Date, each Party shall execute and deliver all assets, agreements, bills of sale, assignments, endorsements, instruments, Business Plan and Documents as are reasonably necessary in the opinion of the other Party to effect the Transaction (and in form and substance that are reasonably satisfactory to such other Party).

### ARTICLE 3 TERMS OF PARKING RIGHTS AND OBLIGATIONS

#### **Section 3.1. Metro Preservation of Metered Parking System and Present Condition.**

(a) *Right to Use.* Metro agrees that, subject to Metro's remedies upon a Parking Company Default, Parking Company shall, at all times during the Term, be entitled to the rights and privileges granted to Parking Company hereunder, subject to (i) the provisions contained in this Agreement and (ii) the police and regulatory powers of Metro. Parking Company will limit its actions relating to the Metered Parking System to those approved as part of the Business Plan and otherwise approved and directed by Metro as contemplated in this Agreement. Metro shall, at all times during the Term, defend (i) its lawful right to impose fees and charges for the privilege of parking motor vehicles and motorcycles in Metered Parking Spaces and to impose and collect fines for violations of Parking Rules and Regulations related to Metered Parking Spaces and (ii) the rights granted to Parking Company hereunder, or any portion thereof, against any Person claiming any

interest adverse to Metro or Parking Company in the Metered Parking System, or any portion thereof, except where such adverse interest arises as a result of the act, omission, negligence, misconduct or violation of Law of Parking Company, its Affiliates or their respective Representatives. Given that at all times during the Term the Metered Parking System will remain a public asset within the public policy control of Metro, Metro will maintain the right to take any actions relating to the Metered Parking System Assets and may direct Parking Company to take any lawful actions in connection with Metered Parking System Operations as Metro deems necessary or beneficial for purposes of public policy.

(b) *Present Condition.* Subject generally to Metro's representations, warranties and covenants, Parking Company understands, agrees and acknowledges that Parking Company (i) by the execution of this Agreement, agrees to accept for operating on behalf of Metro the Metered Parking System "AS IS" on the Effective Date and (ii) has inspected the Metered Parking System and is aware of its condition and acknowledges that Metro neither has made nor is making any representation or warranty, express or implied, regarding the condition of the Metered Parking System (or any part thereof) or its suitability for Parking Company's implementation of the Business Plan, except for representations explicitly provided in Section 9.1(d).

### **Section 3.2. Metered Parking System Operations.**

(a) *Continuous Operation of System.* Except as otherwise specifically provided herein, and in all instances under the direction, supervision, and control of Metro, Parking Company shall, at all times during the Term, (i) be responsible for the Metered Parking System Operations, and (ii) cause the Metered Parking System Operations to be performed in accordance with the provisions of this Agreement and applicable Law. Parking Company shall, at all times during the Term, cause the Metered Parking System to be continuously operational for use during the applicable Periods of Operation by all members of the public except that Parking Company shall not be obligated to conduct Metered Parking System Operations with respect to a Metered Parking Space (A) during any period of time when Metro has suspended Metered Parking System Operations with respect to such Metered Parking Space including, but not limited to, any suspension resulting from a Temporary Closure, (B) as specifically permitted under this Agreement, (C) as required by applicable Law, (D) as necessary to comply with any other requirement of this Agreement (including closures related to the installation of Capital Improvements or maintenance or repair activities as required by the Operating Standards), (E) as necessary for Temporary Closures required to address emergencies, public safety, temporary events or closures undertaken to maintain the public way or (F) as necessary to perform maintenance or repairs of the Metering Devices.

(b) *Costs and Expenses.* Except as otherwise specifically provided herein, as Metro's agent, Parking Company shall, at all times during the Term, pay or cause to be paid all costs and expenses relating to the Metered Parking System Operations as and when the same are due and payable.

(c) *Independent Liabilities.* From Parking Company's own assets (including what it has received as compensation under this Agreement) and not from the Metro Account or other direct Metered Parking System Revenue, Parking Company agrees to assume and discharge or perform when due, all debts, liabilities and obligations whatsoever relating to the Metered Parking System or the Metered Parking System Operations that

occur, arise out of or relate to, or are based on facts or actions occurring, during the Term, and which relate to Parking Company's breach of any covenant, representation or warranty set forth in this Agreement or that arise as the result of the negligence or misconduct of Parking Company or its Contractors. Metro shall perform or cause to be performed and discharge or cause to be discharged as and when due, any debts, liabilities and obligations (i) with respect to the Metro Services, (ii) arising out of Metered Parking System Operations (including with respect to any Metered Parking System Contracts) prior to the Effective Date, (iii) under any Environmental Law, other than to the extent caused by Parking Company's ownership or operation of the Metered Parking System during the Term; (iv) under any collective bargaining agreement or related labor agreement; and (v) with respect to any Metro pension or other Metro retiree benefit or medical plan. Notwithstanding the foregoing provisions of this Section, either Parking Company or Metro will be entitled to utilize proceeds of insurance maintained under the terms of this Agreement to satisfy any liabilities arising in connection with the Metered Parking System, however arising, if and to the extent that the event giving rise to the liability is covered by such insurance policy.

(d) *Right of Entry and Access to the Public Way.* Metro hereby grants to Parking Company and its Representatives the right to enter upon, in, under, over and across the streets, alleys, sidewalks in the public way, all to such extent and at such times as shall be necessary or desirable for Parking Company to access the Metered Parking System (including the Metering Devices and all supporting structures and appurtenances thereto) in order to conduct Metered Parking System Operations, including operating, maintaining, inspecting, repairing and managing Metered Parking System properties, constructing, installing, replacing, testing, dismantling and removing Metering Devices and all supporting structures and appurtenances thereto, interconnecting the same to any permitted electric utility, telephonic or other communication lines, collecting Metered Parking System Revenue, and installing monitoring or observation technology or equipment reasonably necessary for Metered Parking System Operations. The rights granted to Parking Company under this [Section 3.2\(d\)](#) do not create a priority in favor of Parking Company over any other user of the public way and are subject to the Operating Standards and all provisions of Law, including, but not limited to, applicable Metro permit requirements, relating to the conduct of a private business or franchise in the public way.

(e) *Issuance of Parking Tickets.*

(i) To the extent permitted by state law and the Metropolitan Charter, the Parking Enforcement Patrol may utilize Parking Company to perform the responsibilities assigned in this section, including assistance in the investigation of potential parking violations such as the collection and transmission of images recorded on any medium by a traffic control photographic system, license plate recognition technology, or other devices. Parking Enforcement Patrol officers may conduct investigations by reviewing evidence presented to them by Parking Company, and may issue or cause the issuance of citations based on such evidence where warranted. Parking Patrol officers may utilize Parking Company to deliver notices of citation to the owners of vehicles in violation, but any such citation shall be based on a Parking Enforcement Patrol officer's determination that there is probable cause to believe that a violation of the parking provisions of the Metropolitan Code has been committed. Parking Enforcement Patrol Officers will perform this review and make this determination within 24 hours of receiving the evidence of the violation from the Parking Company. The Schedule for Applicable

Parking Violation Fees is set forth in Schedule 5. While at the initiation of this Agreement, parking citations, once issued, will be directly turned over to the Traffic Violations Bureau of the Circuit Court Clerk, if efforts to amend state law and Metro ordinance are successful, it may become possible for Metro to insert a 90-day administrative review step into this procedure before citations are turned over to the Traffic Violations Bureau. If those amendments to the law are successful, thereafter, Parking Company shall facilitate the creation of such a 90-day administrative review process, to be administered by the Metropolitan Department of Transportation and Multimodal Infrastructure, with Parking Company's assistance. This 90-day administrative review period would allow citation recipients to administratively pay their citations or dispute them and have them be resolved before they are turned over to the Traffic Violations Bureau for collection and prosecution through the court system. From time to time Parking Company will recommend improvements to the Enforcement Policies and Procedures for adoption by Metro. From time to time, Parking Company will recommend to Metro modifications to the Business Plan that will allow Parking Company to improve Parking Enforcement and consequently, performance of the Metered Parking System. Metro may change the Enforcement Policies and Procedures as required to comply with federal or Tennessee State Law or as recommended by Parking Company. Metro may otherwise change the Enforcement Policies and Procedures as Metro deems necessary.

(ii) Metro shall remain responsible for the adjudication related to the Parking Enforcement.

(iii) Metro intends that steps taken by Parking Company to assist Metro in connection with Parking Enforcement pursuant to this Section 3.2(e) shall have the same legal efficacy as Parking Enforcement performed by Metro or its Representatives, provided that approval of issuance of parking tickets, towing, immobilization and adjudication of Parking Violations must be done under the supervision and with the Approval of Metro employees.

(iv) Parking Company may delegate its duties under this Section 3.2(e) to a Contractor other than the Parking Company; provided that such Contractor shall be reasonably acceptable to Metro; and provided further, that any Contractor selected pursuant to this Section 3.2(e) shall be subject to the same restrictions and approval requirements of the Parking Company in Section 3.3.

(v) Metro, through its law enforcement officers, retains the right to perform all aspects of Parking Enforcement. If Metro elects to remove Parking Company from aspects of Parking Enforcement: (a) Parking Company shall provide to Metro, at Parking Company's sole cost and expense, parking ticket books or rolls and other items and materials including but not limited to software and licensed access thereto, if applicable (which license shall remain in place for twelve months following the expiration of the term of this Agreement), and/or any related hardware technology reasonably necessary to enable Metro to perform Parking Enforcement as contemplated by this Section 3.2(e); and (b) Metro will be obligated to pay all costs associated with Parking Enforcement without reimbursement of those costs from Project Revenue or from the Metro Account. The Business Plan (Schedule 11) sets forth the Parties' approach to Parking Enforcement.

(f) *Residential Permits.* Metro reserves the right to designate certain on-street parking that are not Metered Parking Spaces as residential parking requiring a Residential Permit. Any *such* on-street parking will not become a part of the Metered Parking System and will not be counted as a Metered Parking Space. If there is a dispute as to whether such additional residential parking will materially impact Parking Company, the Parties shall submit such dispute for resolution by technical dispute resolution pursuant to Section 18.7.

(g) *Hours of Operation.* Parking Company shall be permitted and obligated to provide the Metered Parking Activities and collect Metered Parking System Revenue during the Periods of Operation. Any change to the Periods of Operation by Parking Company will require Approval by Metro.

(h) *Technology.* In order to increase the efficiency of operation of the Metered Parking System and improve Metro's transportation infrastructure, Metro and Parking Company may, contingent upon approval by Metro's Traffic and Parking Commission as required by law, and upon mutual written amendment hereto, agree to provide as part of the Parking Rights and Obligations additional transportation functions that may include the following: Residential parking permit issuance and enforcement system, valet permit issuance and enforcement, broader curbside management, an increase to the hours of operation of the parking meters, dynamic rate changes, dynamic changes of time durations and days of payment, and additional technologies that further contribute to the maximization of the overall value of the Metered Parking System such as dynamic messaging and way-finding systems; and directed enforcement technologies. As part of the Business Plan, Parking Company will make program recommendations and work in tandem with Metro to maximize the total value of the Metered Parking System through the deployment of value-enhancing technologies, products, and activities, in a manner consistent with Metro's overall policy objectives.

### **Section 3.3. Operator Engagement.**

(a) The Metered Parking System Operations shall, at all times during the Term, be under the direction and supervision of Metro and performed on a day-to-day basis by an active operator with the expertise, qualifications, experience, competence, skills and know-how to perform the Metered Parking System Operations in accordance with this Agreement (an "Operator") who will be Parking Company itself. The Operator on the first Day of the Term shall be LAZ Parking Georgia, LLC unless Parking Company has designated another Person to be the Operator and such Person has been Approved in accordance with Section 3.3(b). Parking Company shall not engage an Operator other than LAZ Parking Georgia, LLC or appoint a replacement Operator, unless Metro has Approved such Operator; provided, however, that a Change in Control of an Operator shall be deemed to be the appointment of a replacement Operator subject to Metro's Approval, and if Metro does not provide Parking Company with the relevant Approval, Parking Company shall be entitled to appoint an interim Operator without Metro's Approval for a period of up to one hundred eighty (180) Days from the date of appointment of such interim Operator, so as to avoid any interruption in operations of the Metered Parking System. Any delegation to an Operator shall not relieve Parking Company of any obligations, duties or liability hereunder. Both Parking Company and the Operator will be subject to the control rights of Metro relating to the Metered Parking System as provided for herein and shall perform their responsibilities hereunder as Metro's agents. Parking Company shall immediately notify Metro upon the termination or resignation of an Operator. Any agreement between

Parking Company and any Operator shall by its terms terminate without penalty at the election of Metro upon three (3) Business Days' notice to such Operator. The Operator shall have no interest in or rights under this Agreement or the Metered Parking System unless the Operator is Parking Company itself. If for any reason Parking Company's rights hereunder are terminated, at Metro's election, Metro may engage the Operator to continue to provide the Metered Parking Activities.

(b) *Approval.* Any proposed replacement Operator must: (i) have demonstrated financial strength and integrity, both directly and in conjunction with its direct or indirect beneficial owners and each of their respective Affiliates; (ii) have capitalization to fulfill the obligations of an Operator; (iii) have experience in operating on street metered parking systems particularly across the United States of America; and (iv) directly and through its direct or indirect beneficial owners, each of their respective officers, directors and employees and each of their respective Affiliates, have a suitable business reputation, including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects. Any replacement Operator proposed by Parking Company will be deemed acceptable to Metro unless Metro is able to affirmatively demonstrate that the replacement Operator fails to satisfy the above factors.

(c) *Conflicts of Interest.* Metro recognizes that Parking Company is a national parking company providing parking services to various businesses in Nashville and around the country and that reasonable accommodation needs to be made in order to engage an experienced operator to operate the Metered Parking System on Metro's behalf. Parking Company shall be responsible for ensuring that all users of the Metered Parking System are treated in an unbiased and non-discriminatory manner. Parking Company must notify the Parking Commission of each instance in which the Parking Company or Operator is a user of the Metered Parking System or a paid contractor of a user of the Metered Parking System (excluding ordinary employee retail use of the Metered Parking System by the Parking Company or the Operator). If the Parking Company or Operator has such a conflict of interest or potential conflict of interest, Parking Company and Operator are prohibited from favoring themselves or any affiliated entity over similarly situated parties in connection with the granting of permits and licenses, delivery of data or enforcement of Parking Rules and Regulations and other obligations on users of the Metered Parking System. If at any time Metro determines that a conflict of interest may exist, Metro may independently or through a third party, and at its own cost and expense, audit whether Parking Company and Operator have provided the Metered Parking System Services in an unbiased and non-discriminatory manner. If the auditor determines that Parking Company or Operator has violated any of the requirements of this Section 3.3(c), Parking Company shall

- (i) Pay, (or cause Operator to pay) to Metro the cost of the audit;
- (ii) Pay to the Metro Account for distribution in accordance with this Agreement any amounts that the Audit determines should have been collected from the Metered Parking System and were not;
- (iii) Pay to Metro any other damages that Metro may have incurred by reason of actions of Parking Company in violation of this Section 3.3(c);

(iv) Cease and desist from such biased or discriminatory behavior in accordance with a conflict resolution plan reasonably acceptable to Metro; and

(v) If Metro so elects, allow Metro to assume oversight of any Parking Company or Operator use of the Metered Parking System and recover the costs of such oversight.

**Section 3.4. Authorizations; Qualifications.**

(a) *Compliance.* Parking Company shall obtain, comply with, promptly renew and maintain in good standing all Authorizations; provided, however, that if Parking Company is, at any time during the Term, required to obtain any Authorization from a Governmental Authority that Metro was not required to obtain in connection with its operation of the Metered Parking System prior to the Effective Date, Metro shall use its reasonable efforts to assist Parking Company in obtaining such Authorization. Nothing in this Agreement, including Section 2.1, shall be deemed to waive or modify any Authorization required to be obtained by Parking Company or any other Person in connection with the Metered Parking System, the Metered Parking System Operations or any activities generating Metered Parking System Revenue.

(b) *Qualifications.* Parking Company and Operator shall, as necessary, and on Metro's behalf, maintain all franchises, licenses, privileges and qualifications required to carry on their activities pertaining to the Metered Parking System Operations.

**Section 3.5. No Encumbrances.** Parking Company shall not do any act or thing that will create any Encumbrance against the Metered Parking System. Parking Company shall promptly remove any Encumbrance against the Metered Parking System unless the Encumbrance came into existence as a result of an act of or omission by Metro or a Person claiming through it which in turn was not caused by an act or omission of Parking Company. Parking Company shall not be deemed to be in default hereunder if Parking Company continuously, diligently and in good faith contests any such Encumbrance, or the validity thereof (or causes such contest), by appropriate legal proceedings that shall operate to prevent the foreclosure of any such Encumbrance; provided that Parking Company has given (i) advance notification to Metro that Parking Company intends to contest the validity or collection of the Encumbrance and (ii) unless a bond or other security is provided in connection with such proceedings, a satisfactory indemnity to Metro or deposited with Metro a Letter of Credit, indemnity bond, surety bond, or cash reasonably satisfactory to Metro in an amount equal to the amount of the claim or Encumbrance, plus such interest and penalties, court costs, or other charges as Metro may reasonably estimate to be payable by Parking Company at the conclusion of such contest or as is required to provide insurance over any potential Encumbrance. If such Letter of Credit bond, or cash shall be so deposited, the same shall be held by Metro until such claim or other imposition shall have been released and discharged and shall thereupon be promptly returned to Parking Company, less any amounts reasonably expended by Metro to procure such release or discharge, or any loss, cost, damage, reasonable attorneys' fees or expense incurred by Metro by virtue of the contest of such Encumbrance.

**Section 3.7. Rights of Metro to Access and Perform Work on the Metered Parking System.**

(a) Metro shall have access to the Metered Parking System and each and every part thereof at all reasonable times to perform each of the following at Metro's own cost and expense (other than if pursuant to clause (ii) or (iii)):

(i) to inspect the Metered Parking System or determine whether or not Parking Company is in compliance with its obligations under this Agreement or applicable Law pursuant to Section 8.3;

(ii) if a Parking Company Default then exists, to make any necessary repairs to the Metered Parking System and perform any work therein pursuant to Section 15.1(a)(iii);

(iii) in the event of an emergency or danger that threatens to cause injury to individuals or damage to property or that threatens to impair the continuous operation of the Metered Parking System or the enforcement of Parking Violations or traffic control regulations and if Parking Company is not then taking all necessary steps to rectify or deal with said emergency or danger, to take actions as may be reasonably necessary to rectify such emergency or danger;

(iv) to (A) install, design, manage, maintain, repair and rehabilitate any existing or future utilities or similar services (whether provided by Metro or third parties at Metro's instruction) in, on, under, across, over or through the Metered Parking System (including water and sewer lines, power transmission lines, fiber optic cable, other communications and other equipment), and (B) grant easements and rights on, over, under or within the Metered Parking System for the benefit of suppliers or owners of any such utilities or services (provided that notwithstanding the foregoing clauses (A) and (B), Parking Company shall have the right, at all times during the Term, to install, design, manage, maintain, repair and rehabilitate utilities or other services for its own account (and not for lease, resale or service to third parties) to the extent that the said utilities or services are necessary for the Metered Parking System Operations); and

(v) to, solely in accordance with the terms hereof, do any other act or thing that Metro may be obligated to do or have a right to do under this Agreement or applicable Law.

(b) *Access Rights.* To the extent that Metro undertakes work or repairs under this Section 3.7 or any other provision of this Agreement, such work or repairs shall be commenced and diligently completed in a good and workmanlike manner, in accordance with any applicable Operating Standards and in such a manner as not to unreasonably interfere with the conduct of business in or use of such space.

(c) *Effect of Reservation.* Any reservation of a right by Metro and any of its Representatives, grantees, tenants, licensees and others claiming by, through or under Metro to enter the Metered Parking Spaces and to make or perform any repairs, alterations, restoration or other work in, to, above, or about the Metered Parking System which is Parking Company's obligation pursuant to this Agreement, shall not be deemed to (i) impose any obligation on Metro to do so, (ii) render Metro liable to Parking Company or any other Person for the failure to do so or (iii) relieve Parking Company from any obligation to indemnify Metro as otherwise provided in this Agreement. Nothing in this Agreement shall impose any duty upon the part of Metro to do any work required to be performed by Parking Company hereunder and performance of any such work by Metro and any of its Representatives, grantees, tenants, mortgagees, licensees and others claiming by, through or under Metro shall not constitute a waiver of Parking Company's Default in failing to perform the same.

**Section 3.8. Payment of Taxes.** Except as otherwise provided in this Section 3.8, Parking Company shall pay when due all Taxes payable during the Term in respect of the use or conduct of business with respect to the Metered Parking System. Metro reserves the right, without being obligated to do so, to pay the amount of any such Taxes not timely paid and that are not being contested by Parking Company, and the amount so paid by Metro shall be deemed additional consideration hereunder, due and payable by the Parking Company within Twenty (20) Business Days after written demand by Metro. Parking Company shall have the right to contest in good faith the validity or amount of any Taxes it is responsible to pay under this Section 3.8, provided that

- (a) Parking Company has given prior notice to Metro of each such contest,
- (b) no contest by Parking Company may involve a reasonable possibility of forfeiture or sale of the Metered Parking System, and
- (c) upon the final determination of any contest by Parking Company, if Parking Company has not already done so, Parking Company shall pay any amount found to be due, together with any costs, penalties and interest.
- (d) Without limiting the foregoing, Parking Company shall pay any
  - (i) sales, use or similar Tax, if applicable (as more fully described in Section 2.6);
  - (ii) transfer, stamp, deed recording or similar Tax by reason of the execution and delivery of this Agreement;
  - (iii) Property Taxes, if any;
  - (iv) any Parking Taxes; and
  - (v) State or federal income Taxes imposed on Parking Company.

Notwithstanding anything herein to the contrary, all Taxes (including any current or future Taxes and increases in Taxes) payable during the Term in respect of the use or conduct of business with respect to the Metered Parking System may, subject to the prior approval of the Commission, be passed through by the Parking Company to the users otherwise paying Metered Parking Fees for use of the Metered Parking System, and any such increase to Metered Parking Fees as a result thereof shall not be considered for purposes of calculating rate adjustments pursuant to Schedule 5.

**Section 3.9. Utilities.** Parking Company shall pay when due all charges (including all applicable Taxes and fees) for gas, electricity, light, heat, power, telephone, cellular, water and other utilities and services used in the Metered Parking System Operations or supplied to the Metered Parking System during the Term. Upon request of Metro, Parking Company shall forward to Metro, within Thirty (30) Days following the respective due dates, official receipts, photocopies thereof, or other evidence satisfactory to Metro, of the payment required to be made by Parking Company in accordance with this Section 3.9. Metro does not warrant that any utility services will be free from interruptions caused by war, insurrection, civil commotion, riots, acts of God, government action, terrorism, repairs, renewals, improvements, alterations, strikes, lockouts, picketing, whether legal or illegal, accidents, inability to obtain fuel or supplies or any other causes, and any such interruption of utility services in and of itself shall never be deemed an eviction or disturbance of Parking Company's use of the Metered Parking System or any part thereof, or render

Metro liable to Parking Company for damages or, unless the same constitutes a Delay Event, relieve Parking Company from performance of Parking Company's obligations under this Agreement.

**Section 3.10. Notices of Defaults and Claims.**

(a) *Notice by Parking Company.* Parking Company shall promptly give notice to Metro (i) if Parking Company becomes aware that a Parking Company Default has occurred under this Agreement (provided, however, that the failure to give such notice shall not constitute an independent Parking Company Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of Parking Company pertaining to the Metered Parking System, the Metered Parking System Operations or Metro (whether or not such claim, proceeding or litigation is covered by insurance) of which Parking Company is aware (other than as a result of a notice to Parking Company from Metro). Parking Company shall provide Metro with all reasonable Information requested by it from time to time concerning the status of such claims, proceedings or litigation.

(b) *Notice by Metro.* Metro shall promptly give notice to Parking Company (i) if Metro becomes aware that a Metro Default has occurred under this Agreement (provided, however, that the failure to give such notice shall not constitute an independent Metro Default) and (ii) of all material claims, proceedings, disputes (including labor disputes) or litigation in respect of Metro pertaining to the Metered Parking System, the Metered Parking System Operations or Parking Company (whether or not such claim, proceeding or litigation is covered by insurance, (noting that Metro is self-insured), of which Metro is aware (other than as a result of a notice to Metro from Parking Company). Metro shall provide Parking Company with all reasonable Information requested by it from time to time concerning the status of such claims, proceedings or litigation.

**Section 3.11. Assignment of Operating Agreements and Plans.** At the request of Metro, Parking Company shall collaterally assign, to the extent reasonably practicable and subject to the terms and conditions herein, to Metro, in form and substance satisfactory to Metro, all of the right, title and interest of Parking Company in, to and under all or any of the Operating Agreements and all present and future specifications, plans, drawings, Information and documentation in relation to the Metered Parking System Operations except to the extent any of the foregoing involve proprietary information (collectively, the "Operating Agreements and Plans") as collateral security to Metro for the observance and performance by Parking Company of its covenants and obligations under this Agreement. Parking Company covenants that it shall cause all of the right, title and interest of Parking Company in, to and under all Operating Agreements and Plans entered into or created after the Effective Date to be collaterally assignable to Metro for the purposes of this Section 3.11. Without limiting the generality of the foregoing, but subject to Metro's assumption of future liabilities under the Operating Agreements and Plans, Metro shall be entitled to use the Operating Agreements and Plans if Metro elects to use the Operating Agreements and Plans to remedy a Parking Company Default under this Agreement. Parking Company shall promptly deliver to Metro, at the sole cost and expense of Parking Company, forthwith after completion or execution and delivery, a copy of each item of the Operating Agreements and Plans.

**Section 3.12. Metro Use of Information and Records.** Metro shall be entitled to access all reasonable records, electronic data, inferential data and other Information collected and retained by Parking Company. Information is to be provided to Metro in a format determined by Metro and communicated to Parking Company.

**Section 3.13. Metering Devices.** Parking Company shall be required to maintain and operate the Metering Devices in accordance with the Operating Standards. Parking Company will inspect all Metering Devices in a manner designed to identify and promptly repair or replace defective or inoperative Metering Devices. If Parking Company utilizes physical Metering Devices that the general public can identify, Parking Company shall establish a method pursuant to which members of the general public may report inoperative and defective Metering Devices and shall display, at or near each Metering Device, a telephone number and internet address for the reporting of inoperative and defective Metering Devices and other operational problems related to the Metered Parking System and Metered Parking System Operations. Metro will establish a mechanism by which reports of issues that go to hubNashville/311 will be communicated to the Parking Company and Parking Company shall treat them in the same way as calls or requests to the Parking Company's previously established reporting system. Nothing in this Agreement will prohibit Parking Company from using metering technology such as cameras or in-car readers that replace physical on-street Metering Devices.

**Section 3.14. Withheld Payments by Metro.** Parking Company acknowledges and agrees that if Metro is required under applicable Law of general application to withhold a portion of any payment that Metro is obligated to make to Parking Company under this Agreement, Metro will be deemed to have satisfied such payment obligation to Parking Company to the extent of such withholding by Metro. If any such withheld amounts are permitted to be paid to Parking Company, Metro shall pay such amounts to Parking Company whenever permitted by Law. Subsequent to the Effective Date, prior to withholding any portion of any payment hereunder, Metro will give reasonable prior notice to Parking Company.

**Section 3.15. Naming Rights and Commercial Advertisements and Activities.** Parking Company shall provide recommendations relating to naming of the Metered Parking System provided that such name must be Approved by Metro. For any naming of the Metered Parking System Approved by Metro, Parking Company will implement a marketing strategy consistent with the Business Plan. Metro grants to Parking Company an exclusive, non-transferable, royalty free license during the Term to use the name chosen for the Metered Parking System together with all logos and marks used in connection with the Metered Parking System Operations.

**Section 3.16. Reversion of Metered Parking System.**

(a) On the Reversion Date, Parking Company shall relinquish to Metro or assign to any Replacement Company all of its rights, title and interest in the Metered Parking System (including all improvements to the Metered Parking System), and all Metered Parking System Assets.

(b) Parking Company recognizes the public function of the Metered Parking System and will take all actions required to ensure an efficient transition of the Metered Parking System to the Replacement Company, which efforts may include continuing to perform Metered Parking Activities for a period of up to nine months following the termination of this Agreement through the Reversion Date. During such period, the Parties agree that the disposition of Project Revenues, and the payments to the Parking Company and Operator will continue in accordance with the terms of this Agreement. Notwithstanding the occurrence and continuance of a Metro Default hereunder, Parking Company and Operator may only discontinue performance of the Metered Parking Activities prior to the Reversion Date if ordered to stop work by a court of competent jurisdiction or if:

(i) there are insufficient funds in the Metro Account to pay expenses of the Metered Parking System, including the fees owed to Parking Companies

subcontractors for work, merchandise or services benefitting the Metered Parking System, as such amounts become due;

(ii) Metro has not otherwise made provision for payment of current expenses (including current Capital Improvement expenses) associated with the Metered Parking System; and

(iii) such condition continues for 30 Days following delivery of notice from Parking Company to Metro of such circumstances.

**Section 3.17. Police, Fire, Emergency, and Public Safety Access Rights.** Notwithstanding any other provision of this Agreement, at all times during the Term and without notice or compensation to Parking Company, including any Temporary Closure Fee,

(a) any police, fire, and emergency services and any other security or emergency personnel retained by or on behalf of Metro shall have access, as required by such services or personnel, to the Metered Parking System; and

(b) any Governmental Authority with jurisdiction over the Metered Parking System shall have access to the Metered Parking System as necessary for emergency management and homeland security purposes, including the prevention of or response to a public safety emergency (so long as any exercise of such jurisdiction, to the extent effected by Metro, shall be strictly in accordance with the terms hereof).

#### **ARTICLE 4 CAPITAL IMPROVEMENTS; PROJECT ENHANCEMENTS**

**Section 4.1. Parking Company Responsibility for Capital Improvements.** Parking Company shall be act on behalf of Metro in the installation of all Capital Improvements with respect to the Metered Parking System required to be completed during the Term in accordance with the terms of this Agreement. The Business Plan reflects Parking Company's current projections of all Capital Improvements anticipated during the Term.

**Section 4.2. [Authorizations Related to Capital Improvements]** . Parking Company's obligation with regard to Capital Improvements shall be subject to the issuance by Metro of any and all Authorizations to be issued by Metro and as required by Metro with respect thereto. Metro agrees not to unreasonably withhold, condition or delay the issuance of any such Authorizations. Without limiting the generality of the foregoing, Metro agrees that it will reasonably assist and cooperate with Parking Company in obtaining any and all Authorizations (including any required rights of access over real property that is owned or controlled by Metro) in order for Parking Company to perform Capital Improvements on Metro's behalf.

**Section 4.3. Metro Responsibility for Capital Improvements.** Metro, at its own cost and expense, shall maintain, repair and rehabilitate any existing or future Affected Property, excluding Metered Parking Spaces, that provide direct access to or consist of the Metered Parking System in such a manner as to maintain access to and from the Metered Parking System comparable to that in existence as of the Effective Date and to a standard not less than that observed by Metro with respect to other public roads and other Affected Property. Nothing in the foregoing sentence will prohibit or restrict Metro from shutting roads, relocating roads or otherwise managing the Metro transportation system. Prior to undertaking any maintenance, repairing or rehabilitation pursuant to this Section 4.3 Metro shall first give prompt notice to Parking Company and will consult with Parking Company as to how to mitigate the effects of such work

which is proposed to be carried out. Absent Metro Code or Parking Rules and Regulations restrictions to the contrary, Parking Company will be responsible for installation and removal of all Metered Parking System equipment to facilitate such work, at Metro's expense.

**Section 4.4. Required Payment Options.** Any Metered Parking Space with a Metered Parking Fee of One Dollar (\$1.00) or more per hour must have a payment option at the point of sale other than the cash payment of the Metered Parking Fee. Parking Company shall have 90 days from the Effective Date to implement such measures with respect to the Metered Parking Space in place on the Effective Date. Parking Company shall provide such payment option by use of a credit card or a debit card or similar electronic methods reasonably acceptable to Metro with respect to each Metered Parking Space before any increase of the Metered Parking Fee as set forth on Schedule 5 can occur. Parking Company shall oversee and Metro will be responsible for all costs of removing the old Metering Devices, poles and related infrastructure and repairing any damage caused by such removal (i.e., repairing the holes remaining after such removal) for the installation of new Metering Devices.

**Section 4.5. Project Enhancements.**

(a) Metro agrees that before initiating any procurement for a Project Enhancement or before negotiating or entering into any agreement relating to a Project Enhancement, if the Project Enhancement is not provided for in the currently Approved Business Plan, Metro will: (i) give notice to Parking Company and (ii) engage in exclusive negotiations with Parking Company for the development of such Project Enhancement. If Metro and Parking Company agree on Project Enhancements, Metro and Parking Company will amend the Business Plan and Operating Standards to provide for the Project Enhancements.

(b) Parking Company will have the right, at its sole cost and expense (unless Metro agrees to contribute funds for a Project Enhancement) to design, develop, construct, operate and maintain any Project Enhancement Approved as part of the Business Plan and Capital Improvements Plan.

**ARTICLE 5  
MODIFICATIONS**

**Section 5.1. Metro Directives.** Metro may, at any time during the Term, issue a Metro Directive to Parking Company. A Project Enhancement required by Metro under Section 4.5(a) hereof (and agreed to by Parking Company) shall constitute a Metro Directive. Subject to Metro making available to Parking Company sufficient funds to perform the work required to implement such Metro Directive at or before the time payment for such work is required to be made, and Parking Company having obtained (with the cooperation of Metro) all relevant Authorizations from all relevant Governmental Authorities required for the relevant work, Parking Company shall perform the work required to implement such Metro Directive. The addition of or the removal of Metered Parking Spaces by Metro (including any direction to install or remove Metering Devices) is not a Metro Directive.

**Section 5.2. Parking Company Requests.** If Parking Company wishes at any time during the Term to make a material change in the dimensions, character or quality of any part of the Metered Parking System, then Parking Company may submit to Metro, for Approval, a Parking Company Request with respect to such change and shall submit to Metro for its Approval specific plans with respect to any such work. Parking Company shall be responsible for all amounts required to implement a Parking Company Request (and any Losses incurred in connection therewith) Approved by Metro. No Parking Company

Request shall be implemented unless and until such Parking Company Request has been Approved by Metro.

**Section 5.3. Performance of Modifications.** Subject to the other provisions of this [Article 5](#), Parking Company shall ensure that Metro Directives and Parking Company Requests Approved by Metro are performed in a good and workmanlike manner and diligently complied with and implemented in such manner that the costs (in the case of Metro Directives only) and delays relating thereto are minimized.

## **ARTICLE 6 OPERATING STANDARDS**

**Section 6.1. Compliance with Operating Standards.** Parking Company shall, at all times during the Term and as Metro's agent, ensure that Metered Parking System Operations comply with the Operating Standards in all material respects (including any changes or modifications to the Operating Standards pursuant to the terms of this Agreement) *provided that* Parking Company shall have a reasonable period of time (a) following the Effective Date to carry out any changes to the operations of the Metered Parking System in order to cause the Metered Parking System to comply with the Operating Standards, and (b) from time to time to comply with the introduction of changes or modifications to the Operating Standards that are made in accordance with the terms of this Agreement. Parking Company shall have in place procedures that are reasonably designed to achieve compliance with the Operating Standards. The Operating Standards shall not be deemed to be violated by immaterial acts or omissions however, an inadequate effort to comply with them and/or consistent non-compliance can amount to a breach of a material obligation by Parking Company. Except as specifically set forth herein, Parking Company shall perform all work required to comply with and implement the Operating Standards (including the Capital Improvements described therein) as part of the Metered Parking System Operations.

**Section 6.2. Proposed Operating Standards.** As part of its quarterly report, Parking Company may recommend modifications to the Operating Standards for Metro's consideration and Approval. Parking Company's proposed modifications to the Operating Standards must be accompanied by an explanation of Parking Company's rationale for making its proposal and all relevant supporting Information, certificates, data, reports, studies, investigations and other materials as are necessary to demonstrate that Parking Company's proposed amendments to the Operating Standards are reasonably designed to be consistent with or improve upon the standards and requirements for performance previously approved and authorized by Metro and set forth in the Business Plan. Metro may request any additional supporting Information, certificates, reports, studies, investigations and other materials as are reasonably required to determine if Parking Company's proposed amendment to the Operating Standards are acceptable. Until Metro provides its Approval for the implementation of Parking Company's proposed amended Operating Standards, Parking Company shall not implement the amended Operating Standards and shall implement and comply with the existing Operating Standards. Parking Company's proposed amendments to the Operating Standards will be deemed incorporated into the Operating Standards upon Approval by Metro. If Metro refuses to Approve any proposed amendment to the Operating Standards and Parking Company disagrees with such refusal, Parking Company may not submit the matter to the procedures under the provisions of [Article 18](#).

### **Section 6.3. Modified Operating Standards.**

(a) Metro shall have the right, at any time during the Term, to modify or change the Operating Standards upon notice to Parking Company where necessary to comply with any new Law applicable to the Metered Parking System Operations. If Metro modifies the Operating Standards in accordance with the immediately preceding sentence, Parking Company shall perform all work required to implement and shall comply with all

such modifications and changes and in no event shall Parking Company be excused from compliance with any such modification or change.

(b) If during the Term Metro is of the opinion that a modification or change to the Operating Standards is necessary or desirable but such modification or change is not subject to Section 6.3(a), Metro may upon reasonable written notice to Parking Company modify or change the Operating Standards. At Metro's request, and subject to the foregoing, Parking Company shall perform all work required to implement changes to the Operating Standards. Parking Company shall comply with all modifications and changes to the Operating Standards, and in no event shall Parking Company be excused from compliance with any such modification or change. Metro shall have the right to undertake the work, upon reasonable notice to Parking Company, necessary to ensure implementation of and compliance with any such modification or change to the Operating Standards if Parking Company fails to do so within a reasonable period of time which in no event shall be less than 30 Days. To the extent that such work is undertaken by Metro following proper notice to Parking Company and Parking Company's failure to take reasonable steps in furtherance of the modification or change, Parking Company shall reimburse Metro for Metro's cost of such work within ten (10) Business Days following demand therefor.

## **ARTICLE 7 PROJECT REVENUES**

**Section 7.1. Metered Parking Fees.** Metro will have the sole authority to establish, through the Commission, the Metered Parking Fees and Metro hereby authorizes Parking Company and Operator to collect Metered Parking Fees as Metro's agent for deposit into the Metro Account. If Parking Company chooses to use dynamic fees, Metro, through the Commission, shall approve the Maximum Metered Parking Fee amount for each meter. Parking Company will not charge a Metered Parking Fee for any Metered Parking Space in excess of the Maximum Metered Parking Fee for any measurable increment.

### **Section 7.2. Designation and Removal of Metered Parking Spaces.**

(a) *Designation, Temporary Closure and Removal.* Any time after the Effective Date, Metro shall have the right to designate, temporarily close or remove, from time to time, each Metered Parking Space, subject to the terms of this Article 7. All new Metered Parking Spaces designated by Metro during the Term will be subject to the terms of this Agreement.

(b) *New Metering Technology.* Parking Company shall be obligated to procure on Metro's behalf and promptly install, at Metro's expense, Metering Technology with respect to all newly designated Metered Parking Spaces after written notification by Metro of the designation. New Metering Technology will be ordered within ten (10) Business Days of said notice and will be installed within ten (10) Business Days after delivery and necessary testing of the equipment from the supplier to the Parking Company's location.

(c) *Deemed Removal.* A Metered Parking Space shall be deemed to be removed (a "Permanent Removal") by Metro for the purposes of this Article 7 upon the receipt of written notice by Metro to Parking Company that such closure is a permanent removal of such Metered Parking Space. If a Metered Parking Space ceases to be designated by Metro as a Metered Parking Space, then Parking Company must immediately cease to collect Metered Parking Fees with respect to such parking space and within Five

(5) Business Days after notification and, upon the direction of Metro, shall proceed to remove all Metering Technology with respect thereto, including repairing any damage caused by such removal (i.e., repairing the holes remaining after such removal) unless Metro requires that Metro employees repair such damage.

(d) *Replacement Metered Parking Space.* If a Metered Parking Space is added within ninety (90) Days before or after a Metered Parking Space is designated for Permanent Removal pursuant to Section 7.2(c), then Metro may designate such Metered Parking Space as a replacement Metered Parking Space (a “Replacement Metered Parking Space”) and such removed Metered Parking Space will not be considered a Permanent Removal unless Parking Company objects in writing as provided in this Section 7.1(d). If a Permanent Removal occurs, Parking Company agrees to cooperate with Metro in the ninety (90) Day period after such removal to identify and designate a Replacement Metered Parking Space. Parking Company shall have ninety (90) days from the date the Replacement Metered Parking Space becomes operational to provide written notice to Metro of its reasonable objection to the designation of the Metered Parking Space as a Replacement Metered Parking Space which notice shall provide a detailed explanation for such objection along with all applicable data as to why such Replacement Metered Parking Space is not an adequate substitution. If Metro agrees with such objection, then the designation of the Metered Parking Space as a Replacement Metered Parking Space shall not be effective, and the provisions of Section 7.1 shall apply. If Metro disagrees with such objection, then the Parties shall resolve the dispute pursuant to Article 18. For purposes of determining whether a new Metered Parking Space should be considered a Replacement Metered Parking Space, the removal and addition of multiple Metered Parking Spaces shall be considered in the aggregate in such determination and not just individually. By way of example, if five (5) Metered Parking Spaces are removed and ten (10) Metered Parking Spaces are added during the ninety (90) Day period after such removal, all of the additional Ten (10) Metered Parking Spaces will be considered Replacement Metered Parking Spaces in determining whether there is an adequate substitution for the removed Metered Parking Spaces.

(e) *Remote metering and other systems.* Nothing in this Section shall prevent Parking Company from considering the implementation of on-street permitting devices to increase point-of-sale purchases. Nothing in this Agreement will prohibit Parking Company from installing new metering technology inconsistent with traditional coin and credit card collection systems (e.g. monthly passes, licensed place invoicing or automatic account debiting), provided that such new technology and new systems are Approved by Metro as part of the Business Plan.

**Section 7.3. Notice.** Any designation or removal of a Metered Parking Space by Metro pursuant to this Article 7 shall be provided in writing to Parking Company prior to such designation or removal.

**Section 7.4. Adjustments to Removal Payment.** Within thirty (30) Days after the end of each Quarter, or as soon as reasonably practicable thereafter, Parking Company shall deliver to Metro a statement setting forth: (i) the aggregate number of Permanent Removals in each Zone during such Quarter and during the Term.

**Section 7.5. Temporary Closure of Metered Parking Spaces.**

(a) *Administration.* Parking Company, as agent for Metro, can have the scope of its operations expanded to include responsibility for the administration and operation of

any Temporary Closures in accordance with the Operating Standards at such time as directed by Metro. Parking Company shall be have the authority toto collect the applicable Temporary Closure Fee (as set forth in Schedule 5) from any Person, including Metro, requesting such Temporary Closure in accordance with this Section 7.5 and deposit the Temporary Closure Fee into the Metro Account as Other Project Revenue.

(b) *Third-Party Temporary Closure Fee.* Parking Company shall charge, collect and deposit in the Metro Account the applicable Temporary Closure Fee from any Person (other than Metro), in advance, in respect of any Temporary Closure requested by such Person in accordance with the Operating Standards.

(c) *Existing Permits.* Unless approved by the Commission, no permit issued for loading zones, valet, food truck service, or other use of the Metered Parking Spaces will be modified by Metro or Parking Company during the term of the permit and the holders of those permits will be entitled, vis a vis the Parking Company, to use those permits in accordance with the terms of use in effect at the time of their grant. At the time of renewal of a permit, the terms of the permit may be modified to the terms of such permit then approved by the Commission.

#### **Section 7.6. Additional Metered Parking Spaces.**

(a) During the Term and subject to the provisions of Section 7.2(a) and Schedule 3, Metro may designate Additional Metered Parking Spaces (as such term is defined below) and each Additional Metered Parking Space shall immediately become part of the Metered Parking System; provided however, if Metro designates an aggregate increase of more than ten percent (10%) of Additional Metered Parking Spaces in any Zone without the consent of Parking Company, and Parking Company determines and notifies Metro that such addition is not economically viable (such Metered Parking Spaces referred to herein as the “Reserved Metered Parking Spaces”), Metro shall be responsible for the initial costs related to the addition of such Reserved Metered Parking Spaces to the Metered Parking System. In either case, Parking Company shall promptly undertake to install (if needed) a Metering Technology and/or metering device for each such Additional Metered Parking Space and to commence Metered Parking System Operations with respect to such Metered Parking Space.

(b) In the case of additional designated Metered Parking Spaces that are not Reserved Metered Parking Spaces (such Metered Parking Spaces, the “Additional Metered Parking Spaces”):

(i) Parking Company shall pay all initial costs and expenses related to the addition of such Additional Metered Parking Spaces to the Metered Parking System, including all costs and expenses related to the acquisition cost of any new Metering Technology required in respect thereof and the installation of such Metering Technology by Parking Company, to be reimbursed by Metro as an Operating Expense; and

(ii) Parking Company shall install (if necessary) a Metering Technology for such Additional Metered Parking Space and shall commence Metered Parking System Operations with respect to such Additional Metered Parking Space, in each case, in accordance with the Operating Standards and such

Additional Metered Parking Space, the cost of which shall be an Operating Expense.

**Section 7.7. Right to Challenge.** Unless otherwise stated, if a Party objects to any determination made by the other Party pursuant to this Article 7, the objecting Party shall have the right to submit such determination (at any time including after the date of such determination) for resolution by technical dispute resolution pursuant to Section 18.7.

**Section 7.8. Meter Removal Basket.** During the Term, Metro may remove up to One Hundred and Fifty (150) Metered Parking Spaces (“Meter Removal Basket”) from the Metered Parking System without the Parking Company’s approval. In no event, and notwithstanding any other provision in this Agreement to the contrary, will Metro’s removal of Metered Parking Spaces pursuant to this Section be deemed a material breach of the Agreement. If the number of Metered Parking Spaces (not including Reserved Metered Parking Spaces) increases, then the Meter Removal Basket will increase by the same proportion. Such increase, if any, shall be made in January on an annual basis based on the number of Metered Parking Spaces at the end of the prior Year.

**Section 7.9. Taking Metered Spaces Temporarily Out of Service.** As part of the Business Plan, Parking Company shall submit and prepare an Operations Plan, which shall include parking meter practices and procedures for Temporary Closures of Metered Parking Spaces and taking Metered spaces temporarily out of service or removal and storage of meters during closure. No Metered Parking Fee may be collected on meters taken temporarily out of service.

**Section 7.10 Special Events.** Metro may temporarily close, take over the use of or reduce or prohibit Metered Parking Fees to be charged with respect to all or any portion of the Metered Parking System for Special Events, as more particularly described in the Operating Standards. Metro shall have the right to modify Schedule 7 prior to each Fiscal Year, provided that the Metered Parking Spaces subject to and associated with the Special Events listed on the revised Schedule 7 are commensurate with those of the previous Schedule 7 with respect to (A) quantity; (B) location; (C) the time period during which such Metered Parking Spaces are affected; and (D) the days of the week during which such Metered Parking Spaces are affected.

## **ARTICLE 8 REPORTING; AUDITS; INSPECTIONS; DAY-TO-DAY MANAGEMENT**

### **Section 8.1. Reports.**

(a) *Incident Management and Notifications.* Parking Company shall provide notice to Metro of all emergencies within twelve (12) hours of being known to Parking Company or the Operator and promptly provide notice to Metro of all material accidents and incidents (including without limitation, incidents relating to information security breaches) occurring with respect to the Metered Parking System, and of all claims in excess of Twenty Five Thousand Dollars (\$25,000) made by or against Parking Company, or potential claims in excess of Twenty Five Thousand Dollars (\$25,000) that Parking Company reasonably expects to make against, or to be made against it by, third parties.

(b) *Environmental Incident Management and Notifications.* Parking Company shall provide notice to Metro within twelve (12) hours following Parking Company’s becoming aware of the discharge, dumping, spilling (accidental or otherwise) of any reportable quantity, as defined under applicable Environmental Law, of Hazardous Substances occurring with respect to the Metered Parking System, the time, the agencies

involved, the damage that has occurred and the remedial action taken. Parking Company shall be financially responsible and shall pay the costs and expenses of any remediation required as a result of any such discharge, dumping or spilling of Hazardous Substances caused by the willful misconduct or negligent action of, or permitted by the negligent inaction of, Parking Company or any of its Representatives. Parking Company shall not be financially responsible for the actions of third parties except for those actions consented to by Parking Company or any of its Representatives.

### **Section 8.2. Information.**

(a) *Furnish Information.* At the request of Metro, Parking Company shall, at Parking Company's cost and expense and at any and all reasonable times during the Term: (i) make available or cause to be made available (and, if requested by Metro, furnish or cause to be furnished) to Metro all Information relating to the Metered Parking System Operations, this Agreement or the Metered Parking System as may be specified in such request and as shall be in the possession or control of Parking Company or its Representatives, and (ii) permit Metro, after giving ten (10) Business Days' prior notice to Parking Company (which notice shall identify the Persons that Metro requests to be present for an interview and describe with reasonable specificity the subject matter to be raised in the interview), to discuss the obligations of Parking Company under this Agreement with any of the directors, officers, employees or managers of Parking Company, the Operator or their respective Representatives at times and places acceptable to all attendees (it being agreed that Parking Company shall have the right to be present during any such discussions with the Operator or Representatives of Parking Company or the Operator), for the purpose of enabling Metro to determine whether Parking Company is in compliance with this Agreement. For the avoidance of doubt, this Section 8.2(a) does not impose a requirement to retain Information not otherwise retained in the normal course of business or required to be retained by applicable Law.

(b) *Confidentiality.* If Information is protected as confidential by an exception to the Tennessee Public Records Act, Metro shall endeavor to keep confidential any Information obtained from Parking Company or its Representatives; provided, however, that Metro shall have the right to determine, in its reasonable discretion, whether applicable Law requires disclosure of any such Information. If Metro determines that an applicable exception under Law does not apply to any such Information, Metro shall provide reasonable notice to, and shall consult with, Parking Company prior to disclosure of such Information. Parking Company may initiate an action seeking to prevent the disclosure of Information that Metro determines not to be confidential pursuant to this Section 8.2(b), but in such event Parking Company shall reimburse Metro for the reasonable costs and expenses (including attorneys' fees of the prevailing party) incurred by Metro in connection with such action from Parking Company's own funds. Notwithstanding anything to the contrary herein, Metro and Parking Company may disclose the United States federal tax treatment and tax structure of the Transaction.

### **Section 8.3. Inspection, Audit and Review Rights of Metro.**

(a) *Audit Right.* In addition to the rights set out in Section 8.2, Metro may, at all reasonable times, upon ten (10) Business Days' prior notice cause a Representative designated by it to carry out an Audit and Review of the Information required to be maintained or delivered by Parking Company under this Agreement in connection with the performance of the Metered Parking System Operations for the purpose of verifying the

Information contained therein and shall be entitled to make copies thereof and to take extracts therefrom, at Metro's expense, but, subject to Section 8.2(b). Prior to initiating any such Audit and Review Metro and Parking Company shall reach mutual agreement as to the scope of the Audit and Review, the Information to be shared during such process and the manner in which such Information is shared with Metro. Parking Company shall, at reasonable times, make available or cause to be made available to Metro or its designated Representative such Information and material as may reasonably be required by Metro or its designated Representative for its purposes and otherwise provide such cooperation as may be reasonably required by Metro in connection with the same. Metro will be responsible for all costs associated with the Audit and Review. If the Audit and Review concludes that as a result of errors, omissions or non-compliance with this Agreement Metro has received less than the amount due to Metro, such deficiency will be paid to Metro out of the payments due to Parking Company pursuant to Section 2.2. Either Party will be entitled to object to the results of the Audit and Review and such objection will be resolved under Article 18 as provided herein.

(b) *Annual Report or Accounts.* In addition to the rights set out in Section 8.2, and consistent with the provisions set forth in Section 8.3(a), Metro will have the right to carry out an Audit and Review of Parking Company's annual report or accounts related to this Agreement, including without limitation Parking Company's financial performance hereunder and payments made to Metro, and Parking Company will surrender those annual reports or accounts to Metro or its designee as per their request, for Audit and Review purposes. Parking Company shall have its annual reports and accounts for any given Year duly completed and verified within the first one hundred and twenty (120) Days of the start of the immediately following Year and shall be able to deliver them to Metro within a term not to exceed ten (10) Business Days following Metro's prior notice.

(c) *Inspection Right.* Metro and its Representatives shall, at all reasonable times and upon reasonable prior notice, have access to the Metered Parking System and every part thereof and Parking Company shall and shall cause its Representatives to, furnish Metro with every reasonable assistance for inspecting the Metered Parking System and the Metered Parking System Operations for the purpose of auditing the Information or ascertaining compliance with this Agreement and applicable Law.

(d) *Tests.* Metro and its Representatives shall, with the prior consent of Parking Company, as to the timing thereof, (which shall not be unreasonably withheld, conditioned or delayed), be entitled, at the sole cost and expense of Metro, and at any time and from time to time, to perform or cause to be performed any test, study or investigation in connection with the Metered Parking System or the Metered Parking System Operations as Metro may reasonably determine to be necessary in the circumstances. Parking Company shall, and shall cause its Representatives to, furnish Metro or its Representatives with reasonable assistance in connection with the carrying out of such tests, procedures, studies and investigations.

(e) *No Waiver.* Failure by Metro or its Representatives to inspect, review, test or audit Parking Company's responsibilities under this Agreement or any part thereof, or the performance by Parking Company of the Metered Parking Activities, or the Information, shall not constitute a waiver of any of the rights of Metro hereunder or a release of any of the obligations or liabilities of Parking Company hereunder. Inspection, review, testing or Audit not followed by a notice of Parking Company Default shall not

constitute a waiver of any Parking Company Default or constitute an acknowledgement that there has been or will be compliance with this Agreement and applicable Law.

(f) *No Undue Interference.* In the course of performing its inspections, reviews, tests and audits hereunder, Metro shall minimize the effect and duration of any disruption to or impairment of the Metered Parking System Operations or Parking Company's rights or responsibilities under this Agreement, having regard to the nature of the inspections, reviews, tests and audits being performed, except as necessary in the case of investigations of possible criminal conduct or Metro Ordinance violations.

(g) *Protection of Parking Company Information and Facilities.* Notwithstanding anything to the contrary, and unless otherwise dictated by applicable law, including but not limited to the Tennessee Public Records Act, Metro shall ensure that all of its Representatives shall comply with the confidentiality obligations herein and as reasonably requested by Parking Company. Parking Company must consent to any Representative who is not an employee of Metro prior to said Representative receiving access to Parking Company Information, software, facilities or equipment, including but not limited to the Metered Parking System and Metered Parking System Assets.

**Section 8.4. Audits, Assistance, Inspections and Approvals.** Wherever in this Agreement reference is made to Metro or its Representatives providing assistance, services, Approvals or consents to or on behalf of Parking Company or its Representatives or to Metro or its Representatives performing an audit or inspecting, testing, reviewing or examining the Metered Parking System, the Metered Parking System Operations or any part thereof or the books, records, Documents, budgets, proposals, requests, procedures, certificates, plans, drawings, specifications, contracts, agreements, schedules, reports, lists or other instruments of Parking Company or its Representatives, such undertaking by Metro or its Representatives shall not relieve or exempt Parking Company from, or represent a waiver of, any requirement, liability, Parking Company Default, covenant, agreement or obligation under this Agreement or at Law or in equity and shall not create or impose any requirement, liability, covenant, agreement or obligation (including an obligation to provide other assistance, services or Approvals) on Metro or its Representatives not otherwise created or imposed pursuant to the express provisions of this Agreement.

**Section 8.5. Quarterly Meetings and Annual Meetings.** On or before the twentieth (20th) Day following the end of each Quarter during the Term, Metro and, at its option, the Commission, through its Representative, will meet (the "Quarterly Meeting") with Parking Company and the Operator and their Representatives. Parking Company will submit any documents required for a Quarterly Meeting or Annual Meeting not less than ten (10) Days prior to the meeting. Metro, the Commission and its Representatives and Parking Company and its Representatives may agree to such modifications to the substance, format and content of the Quarterly Meeting and Annual Meeting as they deem most efficient.

(a) *Quarterly Meeting.* At the Quarterly Meeting, Parking Company will provide a review of at least the following, supported by a financial report in such form as Metro and Parking Company agree:

(i) the financial and operational performance of the Metered Parking System over the preceding Quarter, including mapping showing the existing Metered Parking Spaces, planned Metered Parking Spaces, Metered Parking Spaces subject to Permanent Removal and the percentage of the Maximum Metered Parking Fee collected on Metered Parking Spaces over the preceding twelve months and budgeted for collection on Metered Parking Spaces subject to Permanent Removal over the succeeding twelve months, but now not collectible;

(ii) any divergences that may have occurred during the preceding Quarter in Metered Parking System Operations from the requirements of this Agreement and the Business Plan;

(iii) any recommended modifications to the Agreement or the Business Plan or Operating Standards, in the understanding that Parking Company will be expected to evidence its ability to adopt new technologies, deploy best practices, and to constantly improve efficiency and optimization of resources while managing the Metered Parking System Operations as Metro's agent subject to Metro's control and to generate additional Project Revenue;

(iv) all deposits to and disbursements from the Metro Account that have occurred in the prior Quarter (to the extent Metro has provided the corresponding account information);

(v) a review of all Contractors performing Metered Parking Activities and any disputes or claims that have arisen with respect to those Contractors;

(vi) A review of whether Parking Company has been meeting the Performance Metrics set forth in Schedule 12;

(vii) A reconciliation report of all revenues received and deposited in addition to current accounting of all amounts due each Party hereunder, together with a payment authorization to be signed off on by each Party;

(viii) approving all payments to be made on the next Quarterly Settlement Date from the Metro Account to pay amounts due any Party;

(ix) specifying any other amounts due from Metro or Parking Company on the next Quarterly Settlement Date to the Metro Account or to the other Party in accordance with this Agreement;

(x) specifying any amount that is in dispute and not yet paid pending resolution of the dispute.

If the Parties are unable to agree at such Quarterly Meeting on any transfer or payment described in Section 8.5 (a), all transfers and payments, other than the Disputed Amount (as defined below), will be made on the relevant Quarterly Settlement Date.

In furtherance of the foregoing, Metro and the Parking Company, both acting reasonably, will work together to agree (no later than the applicable Settlement Date) the amounts of any disputed transfer or payment (such as agreed amounts, the "Disputed Amounts"). If such Disputed Amounts relate to the transfers or payments required by Section 2.2, the aggregate of such Disputed Amounts shall be retained by Metro in the Metro Account (pending resolution of the relevant disputes), with the remaining funds (if any) in the Metro Account after such retention being applied in accordance with Section 2.2.

(b) *Annual Meeting.* At the Annual Meeting, Parking Company and Metro will review all of the items for a Quarterly Meeting and Parking Company will provide:

(i) recommended changes to the Project Operating Expense budget for the succeeding Year, together with a forecast for the remainder of the Term,

which can include adjustments for changes to minimum wage, unionization and other mandated cost items by the Governmental Authority;

(ii) recommended changes to capital expense budget for the remainder of the Term, together with a forecast for the remainder of the Term;

(iii) a forecast of Metered Parking System Revenue for the next Year of the Term and the remainder of the Term; and

(iv) a forecast of Project Revenue, Project Operating Expenses and Project Capital Expenses for the Year with a comparison against prior Year financial performance.

(c) *Metro Account Information.* Parking Company may, from time to time (but no more than once per Quarter) request an Audit and Review with respect to Metro's administration of the Metro Account. Further, Metro shall promptly provide to Parking Company such information and documentation pertaining to the Metro Account as Parking Company may reasonably request from time to time, including such information as is required for Parking Company to fulfill its obligations under this Section 8.5.

#### **Section 8.6. Day-to-Day Supervising and Administration Activities.**

(a) *Designation by Metro.* For purposes of overseeing, supervising, managing and controlling, and administering day-to-day operations, having direct contact with Parking Company and, in general, verifying compliance with the terms and conditions of this Agreement, Metro will notify Parking Company the name, title and full contact details of the Representative that will represent Metro vis-à-vis Parking Company. Said designation will take place no later than the Effective Date. Until said designation is revoked or canceled by Metro, Metro's Representative will continue serving as Metro's direct and immediate contact with Parking Company.

(b) *Designation by Parking Company.* In order to facilitate Metro's oversight and control of activities related to day-to-day operations hereunder, including having contact with Metro and, in general, verifying compliance with the terms and conditions of this Agreement, Parking Company will notify Metro the name, title and full contact details of Parking Company's Representative that will represent Parking Company vis-à-vis Metro. Said designation will take place no later than the Effective Date. Until said designation is revoked or canceled by Parking Company, or as per Metro's reasonable request, Parking Company's Representative will continue serving as Parking Company's direct and immediate contact with Metro.

(c) For clarity purposes, and unless otherwise expressly notified by one Party to the other Party, the Parties acknowledge that their Representative to be designated for purposes of Section 8.6(a) and Section 8.6(b) will not be authorized or empowered to amend or modify any term or condition under this Agreement or any Schedules hereof, or waive any right by any of the Parties or the exercise of any remedy against the other Party, all as set forth herein.

### **ARTICLE 9 REPRESENTATIONS AND WARRANTIES**

**Section 9.1. Representations and Warranties of Metro.** Metro makes the following representations and warranties to Parking Company as of the date hereof and as of the Effective Date and acknowledges that Parking Company and its Representatives are relying upon such representations and warranties in entering into this Agreement and in consummating the Transaction:

(a) *Organization.* Metro is a municipal corporation and political subdivision duly organized and existing under the Laws of the State.

(b) *Power and Authority.* Metro Council has (i) duly adopted the Metro Ordinance, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and approved the performance by Metro of its obligations contained in this Agreement. Metro has the power and authority to adopt the Metro Ordinance, to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

(c) *Enforceability.* This Agreement has been duly authorized, executed and delivered by Metro and constitutes a valid and legally binding obligation of Metro, enforceable against Metro in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) *Title.* At the Effective Date, Metro will have good and sufficient title to the Metered Parking System necessary for the Metered Parking System Operations pursuant to this Agreement.

(e) *No Conflicts.* The adoption of the Metro Ordinance, execution and delivery of this Agreement by Metro, the consummation of the Transactions contemplated hereby (including the operation of the Metered Parking System in accordance with the terms of this Agreement) and the performance by Metro of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Metro under (i) any applicable Law or (ii) any agreement, instrument or document to which Metro is a party or by which it is bound.

(f) *Consents.* Other than the aforementioned Metro Council approval, no Consent is required to be obtained by Metro from, and no notice or filing is required to be given by Metro to or made by Metro with, any Person (including any Governmental Authority) in connection with the execution, delivery and performance by Metro of this Agreement or the consummation of the Transactions contemplated hereby.

(g) *Compliance with Law; Litigation; Environmental Matters.*

(i) Metro has operated and is operating the Metered Parking System in compliance, in all material respects, with all applicable Laws and Metro is not in breach of any applicable Law that would have a Material Adverse Effect on the operations of the Metered Parking System or on Parking Company Interest. There are no Authorizations from any Governmental Authority necessary for the operation of the Metered Parking System as currently being operated.

(ii) There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of Metro's knowledge, threatened against Metro prior to or at the Effective Date, which will have a Material Adverse Effect on the operations of the Metered Parking System. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of Metro's knowledge, threatened against Metro which could materially affect the validity or enforceability of this Agreement.

(h) *Financial Information.* The financial information of Metro relating to the Metered Parking System attached to the RFQ, fairly presents the revenues, operating expenses and net revenues of the Metered Parking System as of the dates and for the periods stated in such financial information.

(i) *Metered Parking System Contracts.* Each Metered Parking System Contract is in full force and effect, has been made available for review by Parking Company and, subject to Section 2.6(e), that was not selected to be assumed by Parking Company shall be terminated at the Effective Date in accordance with Section 2.6(e) without liability or obligation to Parking Company. Metro is not in material breach of its obligations under any Metered Parking System Contract, and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof, and to the knowledge of Metro no other party to any Metered Parking System Contract is in material breach of its obligations under any Metered Parking System Contract, and no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would or is reasonably be expected to constitute a material breach thereof. The Metered Parking System Contracts are all of the material contracts and agreements (i) to which Metro is a party that relate to the Metered Parking System Operations or (ii) that bind the Metered Parking System in any material respect.

(j) *Brokers.* There is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Metro who might be entitled to any fee or commission from Metro in connection with the Transactions contemplated by this Agreement. There is also no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Metro who might be entitled to any fee or commission from Parking Company in connection with the Transactions contemplated by this Agreement.

(k) *Accuracy of Information.* To the knowledge of Metro, the factual and past historical information regarding the Metered Parking System that Metro provided to Parking Company in the virtual data room established in connection with the procurement was accurate in all material respects at the time such information was provided remains true as of the date this representation is given.

**Section 9.2. Representations and Warranties of Parking Company.** Parking Company makes the following representations and warranties to Metro as of the date hereof and as of the Effective Date and acknowledges that Metro is relying upon such representations and warranties in entering into this Agreement and in consummating the Transaction:

(a) *Organization.* Parking Company is duly organized, validly existing and in good standing under the Laws of the State of its organization. The capital stock, units, partnership or membership interests and other equity interests or securities of Parking

Company (including options, warrants and other rights to acquire any such equity interests) are owned by the Persons set forth in the written certification that Parking Company delivered to Metro prior to the date hereof.

(b) *Power and Authority.* Parking Company has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

(c) *Enforceability.* This Agreement has been duly authorized, executed and delivered by Parking Company and constitutes a valid and legally binding obligation of Parking Company, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) *No Conflicts.* The execution and delivery of this Agreement by Parking Company, the consummation of the Transactions contemplated hereby and the performance by Parking Company of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of Parking Company under (i) any applicable Law, (ii) any material agreement, instrument or document to which Parking Company is a party or by which it is bound or (iii) the articles, bylaws or governing documents of Parking Company.

(e) *Consents.* No Consent is required to be obtained by Parking Company from, and no notice or filing is required to be given by Parking Company to or made by Parking Company with, any Person (including any Governmental Authority) in connection with the execution and delivery by Parking Company of this Agreement or the consummation of the Transactions contemplated hereby, except for such consents which have been obtained and notices which have been given as of the date hereof.

(f) *Compliance with Law; Litigation.* Parking Company is not in breach of any applicable Law that could have a Material Adverse Effect on the operations of the Metered Parking System. Neither Parking Company nor any Affiliate of Parking Company is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of Persons with which Metro may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and solely with respect to Parking Company and its parent, the Debarred List. There is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the best of Parking Company's knowledge, threatened against Parking Company prior to or at the Effective Date, which will have a Material Adverse Effect on (i) the Transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement. Parking Company understands and acknowledges that all employees and contractors are required to abide by all applicable Federal, State and local laws, including but not limited to the Metropolitan Code, and applicable Metro departmental regulations such as NDOT's policies and specifications.

(g) *RFQ.* All of the information in the response to the RFQ (#98182) delivered by or on behalf of Parking Company to Metro in connection with the execution of this Agreement is true, accurate, and correct in all material respects (except for such Information that has been subsequently supplemented or that related to a specified date).

(h) *Operator.* To the extent the Operator is not Parking Company, Parking Company represents and warrants as follows: To the knowledge of Parking Company without any independent investigation into the accuracy thereof: (i) the Operator is duly organized, validly existing and in good standing under the Laws of the State of its organization; (ii) the capital stock of the Operator (including options, warrants and other rights to acquire capital stock) is owned by the Persons set forth in the written certification that Parking Company delivered to Metro prior to the Effective Date; (iii) the Operator has the power and authority to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in connection with its engagement by Parking Company; (iv) the Operator has all necessary expertise, qualifications, experience, competence, skills and know-how to perform the Metered Parking System Operations in accordance with this Agreement; and (v) the Operator is not in breach of any applicable Law that would have a Material Adverse Effect.

(i) *Brokers.* Except for any broker or advisor whose fees will be paid by Parking Company or its Affiliates, there is no investment banker, broker, finder or other intermediary which has been retained by or is authorized to act on behalf of Parking Company or any of its Affiliates who might be entitled to any fee or commission in connection with the Transactions contemplated by this Agreement.

**Section 9.3. Non-Waiver.** No investigations made by or on behalf of any Party at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this Agreement. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

#### **Section 9.4. Survival.**

(a) *Metro's Representations and Warranties.* The representations and warranties of Metro contained in Section 9.1 shall survive and continue in full force and effect for the benefit of Parking Company as follows: (i) as to the representations and warranties contained in Sections 9.1(a) through 9.1(k), inclusive, without time limit; and (ii) as to all other matters, for a period of 24 months following the Effective Date unless a bona fide notice of a Claim shall have been given, in writing in accordance with Section 18.2, prior to the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

(b) *Parking Company's Representations and Warranties.* The representations and warranties of Parking Company contained in Section 9.2 shall survive and continue in full force and effect for the benefit of Metro as follows: (i) as to the representations and warranties contained in Sections 9.2(a) through 9.2(i), inclusive, without time limit; and (ii) as to all other matters, for a period of 24 months following the Effective Date unless a bona fide notice of a Claim shall have been given, in writing in accordance with Section 18.2, before the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final

determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

## ARTICLE 10 FINANCE OBLIGATIONS

### **Section 10.1. Parking Company's Obligations, Net Worth Covenant and Performance Bond.**

Except with respect to Metro's funding of costs and expenses related to Metro Directives as contemplated by Section 5.1, Parking Company shall be responsible for obtaining any financing for the performance of Parking Company's obligations under this Agreement, which financing shall comply with all requirements of this Agreement. Metro wants to ensure that, at all times during this Agreement, Parking Company's obligations under this Agreement remain supported by an entity of financial substance. At the Effective Date and at each Annual Meeting, Parking Company will provide Metro with a third-party audited financial statement or other financial Information acceptable to Metro confirming that the Operator has a balance sheet that includes liquid assets in excess of \$2,000,000 (independent of accounts receivable under this Agreement) and a tangible net worth in excess of \$10,000,000, independent of the value of this Agreement, goodwill and other intangible assets. The Operator may satisfy the obligations under this Section 10.1 directly, or by delivery to Metro of performance bond in form and substance reasonably satisfactory to the Parties (the "Performance Bond") from a surety reasonably acceptable to Metro.

**Section 10.2. Parking Company's Obligation for Estoppel Certificates.** Parking Company shall, promptly upon the request of Metro, execute and deliver to Metro, or any of the parties specified by Metro, standard consents and estoppel certificates with respect to this Agreement which may be qualified to the best of the knowledge and belief of a designated Representative of Parking Company. Nothing herein shall require Parking Company to incur any additional obligations or liabilities or to take any action, give any consent or enter into any document inconsistent with the provisions of this Agreement or applicable Law

**Section 10.3. Prohibited Tax Shelter Transactions.** Parking Company covenants and agrees that it shall not enter into any lease, sublease, management agreement, operating agreement or other similar arrangement or other transaction that would cause Metro to become a party to a "*prohibited tax shelter transaction*" within the meaning of Section 4965 of the Internal Revenue Code of 1986 (it being agreed that, for purposes of this Section 10.3, Metro shall not be treated as having become a party to any such transaction solely by virtue of the execution of this Agreement). A violation of this Section 10.3 by Parking Company shall entitle Metro to (a) recover from Parking Company, to the extent permitted by applicable Law, the amount of any Tax liability to which Metro or any Metro official is subject and (b) require Parking Company, at Parking Company's expense, to prepare timely all statements and returns, and to maintain all lists and similar information that Metro becomes obligated to disclose, file or maintain with any taxing authority or participant or otherwise as a result of such transaction.

**Section 10.4. Ownership of Assets and Priority Rights of Metro** To facilitate Parking Company's management of the Metered Parking System as Metro's agent, Metro hereby grants to Parking Company the right to use all current Metered Parking System Assets for the Term. As Metro's agent, Parking Company may thereafter, and from time to time, purchase additional equipment and make other capital investments in accordance with the terms of this Agreement and the Business Plan.

## ARTICLE 11 COMPLIANCE WITH LAWS

**Section 11.1. Compliance with Laws.** Parking Company agrees to comply with all federal, state, and local laws, rules, and regulations applicable to Parking Company in performing work pursuant to this

Agreement. Specifically, Parking Company, Operator and each Contractor must covenant to abide by the Metro Nashville Code of Conduct: Administrative Code 5-20 & Public Utilities Code §130051.20, §130051.25, & §130685.

**Section 11.2. Nondiscrimination.**

(a) *Metro's Nondiscrimination Policy.* It is the policy of Metro not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

(b) *Nondiscrimination Requirement.* No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in Metro's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory Law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Metro or in the employment practices of Metro's Contractors. Parking Company certifies and warrants that it will comply with this nondiscrimination requirement. Parking Company shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

(c) *Covenant of Nondiscrimination.* Parking Company has committed to the Covenant of Nondiscrimination when registering with Metro to do business.

**Section 11.3. Confidentiality.**

(a) Tennessee Code Annotated §10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. "Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

(b) *Public Information.* The foregoing listing is not intended to be comprehensive, and any information which Metro marks or otherwise designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as "sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

(c) *Sensitive Information.* Parking Company may have access to sensitive Information. Parking Company is required to maintain such Information in a manner appropriate to its level of sensitivity. All sensitive Information must be secured at all times

including, but not limited to, the secured destruction of any written or electronic Information no longer needed. The unauthorized access, modification, deletion, or disclosure of any Metro Information may compromise the integrity and security of Metro, violate individual rights of privacy, and/or constitute a criminal act.

(d) Upon the request of Metro, Parking Company shall return all Information in whatever form, in a format chosen by Metro. In the event of any disclosure or threatened disclosure of Metro Information, Metro is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against Parking Company, including but not limited to emergency and ex parte relief where available.

(e) Parking Company will be entitled to disclose any confidential information of Metro only if compelled to do so pursuant to: (i) a judicial or administrative order; or (ii) any other requirement imposed upon it by applicable law. Prior to making such a disclosure, to the extent allowed pursuant to applicable law, Parking Company shall provide Metro with as much prior notice of its intent to disclose as it is reasonably possible to give under the circumstances; this notice should describe the content of the information to be disclosed and the nature of the authority compelling disclosure and provide the contact information for the person requesting disclosure, if applicable. This Section shall be applicable to information that Metro deems to be confidential information but Parking Company does not. As used in this section, "confidential information" means information that is not subject to public inspection under the Tennessee Public Records Act (Tennessee Code Annotated Section 10-7-101 et seq.).

**Section 11.4. Ethical Standards.** It shall be a breach of the Ethics in Public Contracting standards in the Metropolitan Code of Laws for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of the Ethics in Public Contracting standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical and legal standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

Pursuant to Metropolitan Code of Laws, Section 4.48.020, entities and persons doing business with, or proposing to do business with, the Metropolitan Government of Nashville & Davidson County must adhere to the ethical standards prescribed in Section 4.48 of the Code. By signing this contract, you agree that you have read the standards in Section 4.48 and understand that you are obligated to follow them. Violation of any of those standards is a breach of contract and a breach of legal standards that may result in sanctions, including those set out in Section 4.48.

**Section 11.5. Employment.** Parking Company shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities. Parking Company shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform

work in whole or part under the terms of this Agreement. Violation of either of these provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) Days, to the satisfaction of Metro.

**Section 11.6. Americans With Disabilities Act.** Parking Company assures Metro that all Metered Parking Activities shall be completed in full compliance with the Americans with Disabilities Act (also known as ADA) 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by Metro. Parking Company will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

**Section 11.7. Iran Divestment Act.** In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., Parking Company certifies that to the best of its knowledge and belief, neither Parking Company nor any of its Contractors or subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under any Metro contracts.

## ARTICLE 12 INDEMNIFICATION

**Section 12.1. Indemnification by Operator.** Subject to the limitations of Section 10.1 and Section 12.11, Operator shall indemnify and hold harmless Metro and each of its Representatives from and against any Losses actually suffered or incurred by Metro or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the Operator or each of their respective Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement that are passed through to the Operator in the Operating Agreement, or any breach by Operator of their representations or warranties set forth in the Operating Agreement, (ii) any Claims, damages, costs, and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Operator, its officers, employees, and/or agents, including their sub or independent Contractors, in connection with the performance of this Agreement or (iii) any Claims, damages, penalties, costs, and attorney fees arising from any failure of Operator, its officers, employees, and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws, provided, however, that, except with respect to Claims resulting from Third-Party Claims, Claims are made in writing within a period of three (3) years following the earlier of (i) the expiration of the Term, (ii) the termination of the Operator (in which event the successor Operator shall deliver to Metro an Indemnity Agreement substantially similar to the Indemnity Agreement required under this Section 12.1), or (iii) the earlier termination of this Agreement, or within such shorter period as may be prescribed by the applicable statute of limitations. Parking Company will cause Operator to deliver to Metro at Effective Date and maintain during the term of this Agreement, an indemnity agreement (the "Indemnity Agreement") from the Operator in favor of Metro and in form reasonably agreed between the Operator, Metro and Parking Company and conforming to the requirements of this Section 12.1.

### **Section 12.2. Third-Party Claims.**

(a) *Notice of Third-Party Claim.* If Metro receives notice of the commencement or assertion of any Third-Party Claim, Metro shall give Parking Company, Operator, and Guarantor reasonably prompt notice thereof, but no later than Thirty (30) Days after receipt of such notice of such Third-Party Claim. Such notice to Parking

Company, Operator, and Guarantor shall describe the Third-Party Claim in reasonable detail (and include a copy of any complaint or related documents) and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by Metro.

(b) *Defense of Third-Party Claim.* Parking Company, Operator, and/or Guarantor may participate in or assume the defense of any Third-Party Claim by giving notice to that effect to Metro not later than Thirty (30) Days after receiving notice of that Third-Party Claim (the “Notice Period”). Parking Company’s, Operator’s, and Guarantor’s right to do so shall be subject to the rights of any insurer or other Party who has potential liability in respect of that Third-Party Claim. Parking Company, Operator, and Guarantor each agrees to pay all of its own expenses of participating in or assuming each defense. Metro shall cooperate in good faith in the defense of each Third-Party Claim, even if the defense has been assumed by Parking Company, Operator, and/or Guarantor and may participate in such defense assisted by counsel of its own choice at its own expense. If Metro has not received notice within the Notice Period that Parking Company, Operator, and/or Guarantor has elected to assume the defense of such Third-Party Claim, Metro may assume such defense, assisted by counsel of its own choosing and Operator and/or Guarantor shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by Metro with respect to such Third-Party Claim.

(c) *Assistance for Third-Party Claims.* Parking Company, Operator and Metro will use all reasonable efforts to make available to Parking Company, Operator, and/or Guarantor, (i) those employees whose assistance, testimony and presence is necessary to assist Parking Company, Operator, and/or Guarantor, as the case may be, in evaluating and in defending any Third-Party Claim, and (ii) all Documents, records and other materials in the possession of such party reasonably required by Parking Company, Operator, and/or Guarantor, as the case may be, for its use in defending any Third-Party Claim, and shall otherwise co-operate with Parking Company, Operator, and/or Guarantor, as the case may be. Parking Company, Operator, and Guarantor shall be responsible for all reasonable expenses associated with making such Documents, records and materials available and for all expenses of any employees made available by Metro to Parking Company pursuant to this Section 12.2(c), which expense shall not exceed the actual cost to Metro associated with such employees.

(d) *Settlement of Third-Party Claims.* If Parking Company, Operator, and/or Guarantor elects to assume the defense of any Third-Party Claim in accordance with Section 12.2(b), Parking Company, Operator, and/or Guarantor, as the case may be, shall not be liable for any legal expenses subsequently incurred by Metro in connection with the defense of such Third-Party Claim. However, if Parking Company fails to take reasonable steps necessary to defend diligently such Third-Party Claim within Thirty (30) Days after receiving notice from Metro that Metro bona fide believes on reasonable grounds that Parking Company has failed to take such steps, Metro may, at its option, elect to assume the defense of and to compromise or settle the Third-Party Claim assisted by counsel of its own choosing and Parking Company shall be liable for all reasonable costs and expenses paid or incurred in connection therewith. Metro shall not settle or compromise any Third-Party Claim without obtaining the prior written consent of Parking Company unless such settlement or compromise is made without any liability to and does not require any action on the part of, Parking Company.

**Section 12.3. Direct Claims.** Any Direct Claim shall be asserted by giving Parking Company, Operator, and Guarantor reasonably prompt notice thereof, but not later than Ninety (90) Days after Metro becomes aware of such Direct Claim. Operator and Guarantor shall then have a period of Thirty (30) Days within which to respond in writing to such Direct Claim. If Operator and/or Guarantor does not so respond within such Thirty (30) Day period, Operator and Guarantor shall be deemed to have rejected such Claim, and, in such event, Metro may submit such Direct Claim to the dispute resolution process set forth in Article 18.

**Section 12.4. Failure to Give Timely Notice.** A failure to give timely notice in accordance with this Article 12 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, a Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure. However, this Section 12.4 shall have no effect whatever on the survival provisions set out in Section 9.4 and the rights of the Parties with respect thereto.

**Section 12.5. Reductions and Subrogation.** If the amount of any Loss incurred by Metro at any time subsequent to the making of an indemnity payment hereunder (an “Indemnity Payment”) is reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including Taxes) or premiums incurred in connection therewith), together with interest thereon from the date of payment thereof at the Bank Rate, shall promptly be repaid by Metro to Parking Company, Operator, and/or Guarantor, as the case may be. Upon making a full Indemnity Payment, Operator and/or Guarantor shall, to the extent of such Indemnity Payment, be subrogated to all rights of Metro against any third-party in respect of the Loss to which the Indemnity Payment relates. Until Metro recovers full payment of its Loss, any and all claims of Parking Company against any such third-party on account of such Indemnity Payment shall be postponed and subordinated in right of payment to Metro’s rights against such third-party.

**Section 12.6. Payment and Interest.** All amounts to be paid by Operator, and Guarantor hereunder shall bear interest at a rate per annum equal to the Bank Rate, calculated annually and payable quarterly, both before and after judgment, from the date that Metro disbursed funds, suffered damages or Losses or incurred a Loss, liability or expense in respect of a Loss for which Operator is liable to make payment pursuant to this Article 12, to the date of payment by Parking Company to Metro.

**Section 12.7. [Intentionally Omitted].**

**Section 12.8. Other Matters: Losses Net of Insurance.** For purposes of this Article 12, the amount of any Losses for which indemnification is provided hereunder shall be net of any amounts recovered by Metro under insurance policies with respect to such Losses, it being understood that the obligations of Metro hereunder shall not be so reduced to the extent that any such recovery results in an increase in Metro’s insurance premiums, or results in any other additional cost or expense to Metro. Operator may utilize the proceeds of any insurance policy maintained by Parking Company or Operator and paid for with Project Revenue to satisfy Operator’s indemnification obligations hereunder, provided that any increase in Parking Company’s or Operator’s insurance premiums will be due from Operator directly and not deemed a Project Operating Expense.

**Section 12.9. Offset Rights; Limitations on Certain Damages.** Each Party’s obligations under this Agreement are subject to, and each Party shall have the benefit of, all defenses, counterclaims, rights of offset or recoupment or other claims and rights, including the right to deduct payments due to the other Party hereunder (collectively, “Offsets”) which such Party may have at any time against such other Party (or any of their respective successors and assigns) or any transferee or assignee of any such other Party’s

rights as against such Party or any part thereof or interest therein contingent or otherwise, and no Transfer or assignment of this Agreement or any other obligation of such other Party, or of any rights in respect thereof, pursuant to any plan of reorganization or liquidation or otherwise shall affect or impair the availability to each Party of the Offsets. To the extent permitted by law, in no event shall any Party be liable to the other Party under this Agreement for consequential, indirect, exemplary or punitive damages (except for claims for fraud or for intentional misrepresentation or intentional breach).

**Section 12.10. Survival.** This Article 12 shall remain in full force and effect in all circumstances and shall not be terminated by any breach (fundamental, negligent or otherwise) by any Party of its representations, warranties or covenants hereunder or by any termination or rescission of this Agreement by any Party.

### ARTICLE 13 INSURANCE

**Section 13.1. Insurance Coverage Required.** During the Term of this Agreement, for any and all awards, Parking Company shall obtain and maintain in full force and effect for the duration of this Agreement, including any extension(s), the types and amounts of insurance identified below (the “Required Coverages”). Required limits may be achieved through a combination of primary and excess liability insurance. Required Coverages may be provided by professional consultants or the Operator to avoid the cost of duplicative policies.

(a) *Workers’ Compensation and Employer’s Liability.* Parking Company shall maintain (i) Workers’ Compensation Insurance with statutory limits required by the State or other applicable laws and (ii) Employer’s Liability Insurance with limits of not less than One Hundred Thousand Dollars (\$100,000) for each accident or illness or disease, as required by the Laws of the State. Parking Company shall also require each of its subcontractors to provide Workers’ Compensation Insurance for all of the subcontractor’s employees to be engaged in work under this Agreement unless such employees are covered by Parking Company’s Workers’ Compensation Insurance coverage.

(b) *Commercial General Liability (Primary and Umbrella).* Parking Company shall provide or cause to be provided Commercial General Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage liability.

(c) *Automobile Liability (Primary and Umbrella).* When any motor vehicles (owned, non-owned or hired) are used in connection with work to be performed, Parking Company shall provide or cause to be provided Automobile Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence or accident for bodily injury and property damage. Automobile Liability Insurance shall include coverage for loading and unloading hazards. Such insurance shall contain or be endorsed to contain a provision that includes Metro, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Parking Company.

(d) *Professional Liability* When any architects, engineers, construction managers or any other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering Parking Company’s negligent acts, errors or omissions shall be maintained with limits of not less than Five Million Dollars (\$5,000,000) per claims made basis. When policies are renewed or replaced, the policy

retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two (2) Years.

(e) **Technological Errors and Omissions.** When technology of any kind, including but not limited to software, is utilized in connections with this agreement, Technological Errors and Omissions Insurance, covering Parking Company's negligent acts, error and omissions, shall be maintained with limits not less than One Million Dollars (\$1,000,000). When policies are renewed or replaced, the policy retroactive date shall coincide with, or precede, start of work in connection with this Agreement. A claims-made policy which is not renewed or replaced shall have an extended reporting period of two (2) Years.

(f) **Cyber Liability Insurance.** Parking Company shall provide or cause to be provided Cyber Liability Insurance or equivalent with limits of not less than Five Million Dollars (\$5,000,000) per occurrence.

(g) **Garage Keepers Liability.** Parking Company shall provide or cause to be provided Garage Keepers Liability Insurance or equivalent in the amount of not less than One Million Dollars (\$1,000,000).

(h) **Employee Dishonesty/Crime Coverage Insurance.** Parking Company shall maintain crime coverage with a limit of \$1,000,000. The policy covers, without limitation, third party employee dishonesty, money and securities on and off premises, robbery and safe burglary on and off premises, forgery and fraud.

### **Section 13.2. Additional Requirements.**

(a) **Evidence of Insurance.** Parking Company shall deliver or cause to be delivered to Metro, original standard ACORD form Certificates of Insurance evidencing the Required Coverages on or before the Effective Date, naming Metro as an additional insured on a primary, non-contributory basis, and identifying the project name, the RFP, purchase order, or this Agreement's number on the ACORD document. Each Required Coverage shall be signed by the insurer responsible for the risks insured against or by the insurer's authorized Representative. Parking Company shall furnish Metro with original certificates and amendatory endorsements effecting coverage required by Section 13.1 and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 Days' prior written notice to:

**PROCUREMENTCOI@NASHVILLE.GOV (preferred method)  
OR  
DEPARTMENT OF FINANCE  
PROCUREMENT DIVISION  
730 2ND AVE SOUTH, STE 101  
P.O. BOX 196300**

**NASHVILLE, TN 37219-6300** Parking Company agrees to provide redacted copies of endorsements and policies if requested by Metro in the event that Metro is included in any lawsuit along with Parking Company, but such redactions shall not include any information related to coverages, endorsements or inclusions of required coverages.

(b) *Additional Insured.* All insurance policies shall contain or be endorsed to contain a provision that includes Metro, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Parking Company, including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

(c) *Primary Insurance.* For any claims related to this Agreement, Parking Company's insurance coverage shall be primary insurance with respect to Metro, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering Metro, its officials, officers, employees, and volunteers shall be in excess of Parking Company's insurance and shall not contribute with it.

(d) *Deductibles.* All insurance coverages are subject to a deductible not to exceed \$10,000.00 per claim, including stolen vehicles. Deductible amounts and insurance premiums may be changed upon 60 days written notice to Metro, subject to Metro's approval, and no more often than once per year. The payment of the deductible will be considered an Operating Expense. Metro agrees that Parking Company may self-insure a portion of the insurance noted above. All Required Coverages may contain deductibles or self-insured retentions. Any and all deductibles or self-insured retentions on Required Coverages shall be borne by Parking Company or its Contractors and subcontractors shall be responsible for its own deductibles and/or self-insured retentions.

(e) *Replacement/Maintenance of Coverage.* Parking Company agrees to replace certificates, policies, and/or endorsements for any such insurance expiring prior to the completion of the Metered Parking Activities. Parking Company agrees to maintain the Required Coverages from the Effective Date until the end of the Term. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by Metro as a material breach of this Agreement. If Parking Company has or obtains primary and excess policy(ies), it shall ensure that there is no gap between the limits of the primary policy and the deductible features of the excess policies.

(f) *Insurance Providers.* The Required Coverages shall be with an insurer licensed to do business in the State and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the Metro Director of Risk Management Services.

(g) *Insurance Requirements of Contractors and Subcontractors.* Parking Company shall require all Contractors and subcontractors to maintain the Required Coverages during the Term (unless the Contractor's or subcontractor's employees are covered by Parking Company's insurance) in the same manner as specified for Parking Company. Parking Company shall require each Contractor and subcontractor to have all necessary insurance and maintain the proper certificates of insurance.

**Section 13.3. Damage and Destruction.** Metro shall provide property-casualty insurance for the Metered Parking System, which requirement may be satisfied by self-insurance. If all or any part of any of the Metered Parking System shall be destroyed or damaged during the Term in whole or in part by tornado, earthquake, fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen, Parking Company shall: (i) give

Metro notice thereof promptly after Parking Company receives actual notice of such casualty; and (ii) at its sole cost and expense, whether or not insurance proceeds, if any, shall be equal to the estimated cost of repairs, alterations, restorations, replacement and rebuilding (the “Casualty Cost”), Metro shall proceed diligently to repair, restore or rebuild the same to the condition existing prior to the happening of such fire or other casualty (any such activity being a “Restoration”). Any proceeds received by Metro from the insurance company shall be retained by Metro.**Delay Events.**

(a) If Parking Company is affected by a Delay Event, it shall give notice as soon as practicable but in no event later than Five (5) Business Days following the date on which it first became aware of such Delay Event and the resulting delay to Metro (provided that in the case of such Delay Event being a continuing cause of delay, only one notice shall be necessary), which notice shall include (i) a statement of which Delay Event the claim is based upon, (ii) details of the circumstances from which the delay arises and (iii) an estimate of the delay in the performance of obligations under this Agreement attributable to such Delay Event and information in support thereof, if known at that time. Metro shall, after receipt of any such notice, be entitled by notice to require Parking Company to provide such further supporting particulars as Metro may reasonably consider necessary.

(b) Parking Company shall notify Metro within Five (5) Business Days following the date on which it first became aware that a Delay Event has ceased.

(c) Subject to Parking Company giving the notice required in Section 14.1(a), a Delay Event shall excuse Parking Company from whatever performance is prevented by the Delay Event referred to in such notice for such appropriate number of Days as Metro and Parking Company jointly determine, each acting reasonably. If Metro and Parking Company cannot agree upon the period of extension, then either Party shall be entitled to refer the matter to the dispute resolution procedure in Article 18. This Section 14.1(c) shall not excuse Parking Company from the performance and observance under this Agreement of all obligations and covenants not affected by the Delay Event. Notwithstanding the occurrence of a Delay Event, Parking Company shall continue its performance and observance under this Agreement of all of its obligations and covenants to the extent that it is reasonably able to do so and shall use its reasonable efforts to minimize the effect and duration of the Delay Event. Nothing herein shall permit or excuse noncompliance with a change to applicable Laws.

(d) If a Delay Event occurs that has the effect of causing physical damage or destruction to a material part of the Metered Parking System that results in the Metered Parking System being substantially unavailable for the performance of Metered Parking Activities and such effect continues for a period in excess of One Hundred Twenty (120) Days (contiguous or non-contiguous within a Three Hundred Sixty (360)-Day period) and has a Material Adverse Effect, or if insurance policies payable (or that should have been payable but for the breach of an obligation to take out and maintain such insurance policy by Parking Company) or condemnation or other similar proceeds are insufficient to restore Parking Company to the same economic position as it would have been in the absence of such event, then, notwithstanding Section 2.1, Parking Company shall have the right to extend the Term for a period that would be sufficient so as to compensate Parking Company and to restore it to the same economic position as it would have been in had such Delay Event not occurred (a “Delay Event Remedy”).

(e) If Parking Company elects to exercise the right to the Delay Event Remedy, Parking Company shall give notice (“Delay Event Notice”) to Metro within five (5) Business Days following the date on which Parking Company first became aware of its right to the Delay Event Remedy occurring setting forth (i) the details of the Delay Event and its effect on either causing physical damage or destruction to the Metered Parking System that results in the Metered Parking System being substantially unavailable for the performance of Metered Parking Activities or suspending the collection of Metered Parking Fees at the Metered Parking System, (ii) the amount claimed as compensation to restore Parking Company to the same economic position as it would have been in had such Delay Event not occurred (including the details of the calculation thereof) and (iii) the details of the relationship between such compensation and the Delay Event Remedy that it proposes. Metro shall, after receipt of the Delay Event Notice, be entitled by notice to require Parking Company to provide such further supporting particulars as Metro may reasonably consider necessary. If Metro wishes to dispute the occurrence of a Delay Event or the Delay Event Remedy claimed in the Delay Event Notice, Metro shall give notice of dispute (the “Delay Event Dispute Notice”) to Parking Company within Thirty (30) Days following the date of receipt of the Delay Event Notice stating the grounds for such dispute, and if neither the Delay Event Notice nor the Delay Event Dispute Notice has been withdrawn within Thirty (30) Days following the date of receipt of the Delay Event Dispute Notice by Parking Company, the matter shall be submitted to the dispute resolution procedure in Article 18.

## **ARTICLE 15 DEFAULTS**

### **Section 15.1. Default by Parking Company.**

(a) *Events of Default.* The occurrence of any one or more of the following events during the Term shall constitute a “Parking Company Default” under this Agreement:

(i) if Parking Company materially fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in this Agreement, and such failure continues unremedied for a period of thirty (30) Days following notice thereof (giving particulars of the failure in reasonable detail) from Metro to Parking Company or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that Parking Company has demonstrated to the satisfaction of Metro, that (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to Metro, and (C) such failure is in fact cured within such period of time;

(ii) if this Agreement or all or any portion of Parking Company Interest is Transferred in contravention of Article 16 and such Transfer or action continues unremedied for a period of ten (10) Business Days following notice thereof from Metro to Parking Company;

(iii) if Parking Company fails to comply with the requirements or directives of a final award in a matter submitted to dispute resolution in accordance with Article 18, and such failure continues unremedied for a period of Thirty (30)

Days following notice thereof from Metro to Parking Company, or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that Parking Company has demonstrated to the satisfaction of Metro, that (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to Metro, and (C) such failure is in fact cured within such period of time;

(iv) Parking Company (A) admits, in writing, that it is unable to pay its debts as such become due, (B) makes an assignment for the benefit of creditors, (C) files a voluntary petition under Title 11 of the U.S. Code, or if such petition is filed against it and an order for relief is entered, or if Parking Company files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Parking Company or of all or any substantial part of its properties or of the Metered Parking System or any interest therein, or (D) takes any corporate action in furtherance of any action described in this Section 15.1(a)(iv);

(v) if within ninety (90) Days after the commencement of any proceeding against Parking Company seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within Ninety (90) Days after the appointment, without the consent or acquiescence of Parking Company, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Parking Company or of all or any substantial part of its properties or of the Metered Parking System or any interest therein, such appointment has not been vacated or stayed on appeal or otherwise, or if, within Ninety (90) Days after the expiration of any such stay, such appointment has not been vacated;

(vi) if a levy under execution or attachment has been made against all or any part of the Metered Parking System or any interest therein as a result of any Encumbrance created, incurred, assumed or suffered to exist by Parking Company or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within Sixty (60) Days after Parking Company becomes aware of such levy, unless such levy resulted from actions or omissions of Metro or its Representatives; or

(vii) Parking Company repudiates in writing any of its material obligations under this Agreement.

(b) *Remedies of Metro Upon Parking Company Default.* Upon the occurrence, and during the continuance, of a Parking Company Default, Metro may, by notice to Parking Company, declare Parking Company to be in default and may, subject to the provisions of Article 17, do any or all of the following as Metro, in its discretion, shall determine:

(i) Metro may terminate this Agreement by giving thirty (30) Days' prior notice to Parking Company upon the occurrence of (A) a Parking Company Default that consists of a failure to comply with, perform or observe any Operating Standard if such Parking Company Default creates a material danger to the safety of Metered Parking System Operations or a material impairment to the Metered Parking System or to the continuing use of the Metered Parking System or (B) any other Parking Company Default; provided, however, that Parking Company shall be entitled to cure a Parking Company Default pursuant to Section 15.1(a)(i) by providing Metro with a written work plan within such thirty (30)-Day period outlining the actions by which Parking Company will ensure future compliance with either (x) the obligation, covenant, agreement, term or condition in this Agreement or (y) the requirements or directives of the issued final award in accordance with Article 18 that Parking Company failed to perform or observe, which work plan is Approved by Metro, but any failure of Parking Company to comply in any material respect with such Approved work plan following thirty (30) Days' notice of such failure from Metro to Parking Company shall be deemed to be a Parking Company Default described in Section 15.1(a)(i) and the entitlement of Parking Company to cure such Parking Company Default by the delivery of an Approved work plan shall not apply thereto;

(ii) If Parking Company Default is by reason of the failure to pay any monies, Metro may (without obligation to do so) make payment on behalf of Parking Company of such monies, and any amount so paid by Metro shall be payable by Parking Company to Metro within Three (3) Business Days after demand therefor;

(iii) Metro may cure a Parking Company Default (but this shall not obligate Metro to cure or attempt to cure a Parking Company Default or, after having commenced to cure or attempted to cure a Parking Company Default, to continue to do so), and all costs and expenses reasonably incurred by Metro in curing or attempting to cure Parking Company Default, shall be payable by Parking Company to Metro within three (3) Business Days after written demand therefor; provided, however, that (A) Metro shall not incur any liability to Parking Company for any act or omission of Metro or any other Person in the course of remedying or attempting to remedy any Parking Company Default and (B) Metro's cure of any Parking Company Default shall not affect Metro's rights against Parking Company by reason of Parking Company Default; Metro may seek specific performance, injunction or other equitable remedies, it being acknowledged that damages are an inadequate remedy for a Parking Company Default;

(iv) Metro may seek to recover its Losses arising from such Parking Company Default and any amounts due and payable under this Agreement and, in connection therewith, exercise any recourse available to any Person who is owed damages or a debt;

(v) with respect to those Parking Company Defaults that entitle Metro to terminate this Agreement pursuant to Section 15.1(b)(i) Metro may terminate Parking Company's right to act as Metro's agent to use, operate, maintain and rehabilitate the Metered Parking System and Parking Company's right to collect and retain Metered Parking System Revenue, and in such event, Metro or Metro's Representatives may immediately or at any time thereafter take possession and

control of the Metered Parking System, by any available action under law or proceeding at Law or in equity, and with or without terminating this Agreement, and undertake any and all of the Metered Parking System Operations; provided, however, that no such action by Metro shall be construed as an election on its part to terminate this Agreement unless a notice of such intention is given to Parking Company; and

(vi) Metro may exercise any of its other rights and remedies provided for hereunder or at law or equity.

#### **Section 15.2. Defaults by Metro.**

(a) *Events of Default.* The occurrence of any one or more of the following events during the Term shall constitute a “Metro Default” under this Agreement:

(i) if Metro fails to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement and such failure continues unremedied for a period of thirty (30) Days following notice thereof (giving particulars of the failure in reasonable detail) from Parking Company to Metro or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that Metro has demonstrated to the satisfaction of Parking Company, that (A) it is proceeding with all due diligence to cure or cause to be cured such failure, and (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to Parking Company, and (C) such failure is in fact cured within such period of time;

(ii) if Metro fails to comply with the requirements or directives of a final award in a matter submitted to dispute resolution in accordance with Article 18 and such default continues unremedied for a period of Thirty (30) Days following notice thereof from Parking Company to Metro, or for such longer period as may be reasonably necessary to cure such failure, provided, in the latter case, that Metro has demonstrated to the satisfaction of Parking Company, acting reasonably, that (A) it is proceeding, and will proceed, with all due diligence to cure or cause to be cured such failure, (B) its actions can be reasonably expected to cure or cause to be cured such failure within a reasonable period of time acceptable to Parking Company, acting reasonably and (C) such failure is in fact cured within such period of time;

(iii) if Metro (A) admits, in writing, that it is unable to pay its debts as such become due, (C) files a voluntary petition under Title 9 of the U.S. Code, or if such petition is filed against it and an order for relief is entered, or if Metro files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Metro, or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), or (D) takes any action in furtherance of any action described in this Section 15.2(a)(iii); or if within Ninety (90) Days after the commencement of any proceeding against Metro seeking any

reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any other present or future applicable Law, such proceeding has not been dismissed, or if, within Ninety (90) Days after the appointment, without the consent or acquiescence of Metro, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Metro or of all or any substantial part of its properties (in each case, to the extent applicable to a municipality), such appointment has not been vacated or stayed on appeal or otherwise, or if, within Ninety (90) Days after the expiration of any such stay, such appointment has not been vacated;

(iv) if (A) a court of competent jurisdiction enters a final and unappealable judgment order against Metro in any action, suit or proceeding brought against Metro, which action, suit or proceeding was not brought by or supported in any way by Parking Company, any Operator, any Representative, or any other Person acting on behalf of any of the foregoing, and (B) as a result of such final and unappealable judgment order (i) it becomes unlawful for Metro to comply with or observe any material obligation, covenant, agreement, term or condition in this Agreement or (ii) any material obligation, covenant, agreement, term or condition of Metro under this Agreement becomes unenforceable against Metro; and (C) the Parties, acting in good faith and within a reasonable time, are unable to reform this Agreement to conform to the requirements of such judgment order; provided that the entry of such judgment order shall not constitute a Metro Default if, within 180 Days following the entry of such judgment order, (i) a Law is enacted that validates or confirms the lawful authority of Metro, or grants to Metro the lawful authority, to perform its contractual obligations under this Agreement notwithstanding such judgment order or other-wise remedies Metro's Default and (ii) Metro reimburses Parking Company for any unreimbursed Losses attributable to such judgment order and accrued during the period from the date of entry of such judgment order to the date of enactment of such Law; or

(v) Metro repudiates in writing any of its material obligations under this Agreement.

(b) *Remedies of Parking Company Upon Metro Default.* Upon the occurrence, and during the continuance, of a Metro Default, Parking Company may by notice to Metro declare Metro to be in default and may, subject to the provisions of [Article 18](#), do any or all of the following as Parking Company, in its discretion, shall determine:

(i) Parking Company may terminate this Agreement by giving Sixty (60) Days' prior notice to Metro; provided, however, that Metro shall be entitled to cure a Metro Default pursuant to [Section 15.2\(a\)\(i\)](#) by (i) agreeing within such Sixty (60)-Day period to pay any Losses sustained as a result of such Metro Default or (ii) providing Parking Company with a written work plan within such Sixty (60)-Day period outlining the actions by which Metro will ensure future compliance with either (x) the obligation, covenant, agreement, term or condition in this Agreement or (y) the requirements or directives of the issued final award in accordance with [Article 18](#) that Metro failed to perform or observe, which work plan is approved by Parking Company (which approval shall not be unreasonably withheld, delayed or conditioned), but any failure of Metro to comply in any

material respect with such approved work plan following Thirty (30) Days' notice of such failure from Parking Company to Metro shall be deemed to be a Metro Default described in Section 15.2(a)(i) and the entitlement of Metro to cure such Metro Default by the delivery of an approved work plan shall not apply thereto;

(ii) Parking Company may exercise any of its rights or remedies at Law or in equity;

(iii) Parking Company may seek to recover its Losses and any amounts due and payable under this Agreement;

(iv) Parking Company may seek to recover its Losses arising from such Metro Default and any amounts due and payable under this.

**Section 15.3. Consequences of Termination or Reversion.** Upon the termination or expiration of this Agreement, notwithstanding any claims the Parties may have against each other and subject to all other provisions of this Agreement, the following provisions shall apply:

(a) Parking Company shall, by deed, bill of sale, Transfer of title or other conveyance method, without action whatsoever being necessary on the part of Metro, surrender, Transfer and deliver to Metro the Metered Parking System (including all improvements to the Metered Parking System), the Metered Parking System Assets and all Personal Property, in good order, condition and repair (reasonable wear and tear excepted), determined reasonably in accordance with the then applicable Operating Standards, free and clear of all Encumbrances other than those created by or suffered to exist or consented to by Metro, and with respect to any property added to the Metered Parking System after the Effective Date, title defects affecting such property in existence on the date such property is added to the Metered Parking System;

(b) Parking Company hereby waives any notice now or hereafter required by Law with respect to Transfer of the Metered Parking System on the Reversion Date;

(c) Metro shall, as of the Reversion Date, assume full responsibility for the Metered Parking System Operations, and as of such date, Parking Company shall have no liability or responsibility for Metered Parking System Operations occurring after such date;

(d) Parking Company shall be liable for all costs, expenses and other amounts for which it is liable or responsible hereunder incurred up to but not including the Reversion Date (subject to Section 3.16(b)), and Metro shall be liable for all costs, expenses and amounts incurred in connection with the Metered Parking System Operations on and after the Reversion Date;

(e) Metro shall have the option to enter into a New Agreement by providing notice to Parking Company of Metro's requirement that Parking Company assign to Metro all of Parking Company's right, title and interest in, to and under (in each of the following cases, to the extent assignable) all or any of the Operating Agreements then in effect and all Authorizations for the remainder of their respective terms, without warranty or recourse and to the fullest extent permitted by Authorizations and applicable Law. If Metro exercises such option, the right, title and interest of Parking Company in, to and under such Operating Agreements and Authorizations shall be assigned to Metro as of the Reversion Date and Parking Company shall surrender the Metered Parking System to Metro and shall

cause all Persons claiming under or through Parking Company to do likewise, and Metro shall assume in writing, pursuant to an assumption agreement satisfactory to Parking Company, Parking Company's obligations under the Operating Agreements that arise in respect of, or relate to, any period of time falling on and after the Reversion Date. If Metro does not exercise such option, Parking Company shall take such steps as are necessary to terminate the Operating Agreements to the extent permitted thereunder and in accordance with the terms thereof;

(f) Parking Company, at its sole cost and expense, shall promptly deliver to Metro copies of all records and other documents relating to the Metered Parking System Revenue that are in the possession of Parking Company or its Representatives and all other then existing records and Information relating to the Metered Parking System as Metro, acting reasonably, may request;

(g) Parking Company shall execute and deliver to Metro a Transfer of title documents and other instruments reasonably required by Metro to evidence such termination;

(h) Parking Company shall assist Metro in such manner as Metro may require to ensure the orderly transition of Parking Company's operation, maintenance and rehabilitation of the Metered Parking System, pursuant to this Agreement, and shall, if appropriate and requested by Metro, take all steps as may be necessary to enforce the provisions of the Operating Agreements pertaining to the surrender of the Metered Parking System;

(i) Metro and Parking Company shall make appropriate adjustments, including adjustments relating to any Operating Agreements assigned to Metro, Metered Parking Fees and other similar charges collected on and after the Reversion Date that are incurred prior to the Reversion Date, and utilities, and any adjustments and payment therefor shall be made by the appropriate Party on the Reversion Date, but shall be subject to readjustment if necessary because of error in matters such as Information, calculation, payments and omissions that are identified within the period of One Hundred Eighty (180) Days following the Reversion Date; provided, however, that Metro and Parking Company acknowledge that certain adjustments or readjustments may have to be made when a third-party provides to Metro or Parking Company a final adjustment amount in respect of a matter, and for such matters the adjustment and readjustment date shall each be correspondingly extended; and

This Section 15.3 shall survive the expiration or any earlier termination of this Agreement.

## **ARTICLE 16 RESTRICTIONS ON TRANSFERS**

### **Section 16.1. Transfers by Parking Company.**

(a) Parking Company shall not Transfer, or otherwise permit the Transfer of any or all of Parking Company Interest to or in favor of a Transferee, unless (i) Metro has Approved and (ii) the proposed Transferee enters into an agreement with Metro in form and substance satisfactory to Metro, acting reasonably, wherein the Transferee acquires the rights and assumes the obligations of Parking Company and agrees to perform and observe all of the obligations and covenants of Parking Company under this Agreement including

to comply with any outstanding, non-defaulted, Metered Parking System Contracts and other contracts signed by Parking Company relating to the Metered Parking System and the Metered Parking System Operations, which will be assigned to Transferee. Parking Company will contract for service, and will cause the Operator to contract for service, the Metered Parking System Contracts and other contracts signed by Parking Company relating to the Metered Parking System and the Metered Parking System Operations, for so long as Parking Company controls the Metered Parking System, in the understanding that Parking Company shall not engage or appoint a replacement Operator unless Metro has Approved such Operator. Any Transfer made in violation of the foregoing provision shall be null and void *ab initio* and of no force and effect. Any Transferee must be registered and approved to be transactional with Metro in accordance with Metro's customary procedures prior to the assignment of Parking Company's interest to the Transferee.

(b) Approval of a proposed Transferee may be withheld if Metro reasonably determines that (i) such proposed Transfer is prohibited by applicable Law, (ii) such proposed Transferee's entering into this Agreement with Metro is prohibited by Law, (iii) such proposed Transfer would result in a violation of Law, (iv) such proposed Transfer would result in a Tax liability to Metro (unless Metro shall have received indemnification, as determined in Metro's discretion, with respect thereto) or (v) such proposed Transferee is not capable of performing the obligations and covenants of Parking Company under this Agreement, which determination shall be based upon and take into account the following factors: (a) the financial strength and integrity of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners and each of their respective Affiliates; (b) the experience of the proposed Transferee or the Operator to be engaged by the proposed Transferee in operating metered parking systems and performing other relevant projects particularly across the United States of America; (c) the background and reputation of the proposed Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects); and (d) the Operator engaged by the proposed Transferee, including the ability of the Operator to meet the Operating Standards.

(c) No Transfer of all or any of Parking Company Interest shall be made or have any force or effect if, at the time of such Transfer there has occurred a Parking Company Default that has not been remedied or an event that with the lapse of time, the giving of notice or otherwise would constitute a Parking Company Default. A Change in Control of Parking Company at any level shall be deemed to be a Transfer of Parking Company Interest for purposes of the foregoing provisions unless Parking Company remains an Affiliate of Guarantor after the Change in Control. Nothing contained in the foregoing shall be deemed to prohibit or limit Parking Company from changing its organizational form or status (including a change from a limited liability company to a corporation or limited partnership), provided that such change in organizational form or status does not result in a Change in Control of Parking Company. Neither (i) a change of ownership that is attributable to a management agreement, operating agreement or other similar arrangement that is subject and subordinate in all respects to the rights of Metro under this Agreement, nor (ii) the creation of a trust or any other transaction or arrangement that is solely a transfer of all or part of Parking Company's economic interest under this Agreement to another entity shall be deemed to be a Transfer of Parking Company Interest for purposes of Section 16.1(a).

(g) NOTICE OF ASSIGNMENT OR TRANSFER BY PARKING COMPANY UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

**PRG@NASHVILLE.GOV (preferred method)**

**OR**

**METRO PURCHASING AGENT  
DEPARTMENT OF FINANCE  
PROCUREMENT DIVISION**

**730 2ND AVENUE SOUTH**

**PO BOX 196300**

**NASHVILLE, TN 37219-6300**

(h)

**Section 16.2. Assignment by Metro.** Metro shall have the right to Transfer any or all of Metro's interest in the Metered Parking System and this Agreement, provided that it shall be jointly and severally liable with the Transferee for the performance and observance of the obligations and covenants of Metro under this Agreement; the Transferee must not be a direct competitor with Parking Company and its Affiliates; the Transferee, its direct or indirect beneficial owners, any proposed managers or operating partners and each of their respective Affiliates must possess the financial strength and integrity in order to fulfill the monetary obligations and duties of Metro and any agreement entered into by Metro under this Agreement and that any such Transfer by Metro shall not materially limit or reduce any of Parking Company's other rights, benefits, remedies or privileges under this Agreement nor shall it materially impair Metro's ability to meet its obligations under this Agreement.

#### **ARTICLE 17**

##### **TERMINATION FOR CONVENIENCE BY METRO**

**Section 17.1. Termination for Convenience by Metro.** Metro has the option, in its sole discretion and without cause, to terminate for its convenience ("Early Termination Option"). Metro may exercise this option by the delivery of written notice to Parking Company. If exercised, the Reversion Date shall occur on the date specified in Metro's notice of election. A payment in a reasonable amount representing what remains owed to Parking Company, at that point in time, if anything, consistent with the terms of this agreement and, in the event this amount is disputed, the dispute resolution provisions of the following Article, shall be due from Metro to Parking Company by same Day wire transfer. Any amounts that are not determinable on the Reversion Date will be prorated to the best of the Parties' knowledge and re-prorated on the date that is 90 Days following the Reversion Date. All Parking Company operations shall cease on the Reversion Date. Notwithstanding anything to the contrary, if the Early Termination Option is exercised, Parking Company shall turn over Metered Parking System to Metro, subject to normal wear and tear, as it would have had the Agreement run its full Term, including, but not limited to complying with the provisions set forth in Section 15.3.

#### **ARTICLE 18**

##### **DISPUTE RESOLUTION**

**Section 18.1. Scope.** Any dispute arising out of, relating to, or in connection with this Agreement shall be resolved as set forth in this Article 18.

**Section 18.2. Informal Dispute Resolution Procedures.** The Parties shall attempt in good faith to resolve such dispute within Fifteen (15) Business Days following receipt by one Party of notice of such dispute from the other Party. If the Parties are unable to resolve the dispute within such period of Fifteen (15) Business Days, and upon notice by either Party to the other, the dispute shall be referred to the Designated Senior Person of each Party. The Designated Senior Persons shall negotiate in good faith to

resolve the dispute, conferring as often as they deem reasonably necessary. Statements made by Representatives of the Parties during the dispute resolution procedures set forth in this [Section 18.2](#) and in [Section 18.3](#) and documents specifically prepared for such dispute resolution procedures shall be considered part of settlement negotiations and shall not be admissible as evidence in any other litigation or dispute resolution proceeding between the Parties without the mutual consent of the Parties.

**Section 18.3. Mediation.** Mediation of a dispute under this Agreement may not be commenced until the earlier of: (i) such time as both of the Designated Senior Persons, after following the procedures set forth in [Section 18.2](#), conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) Fifteen (15) Business Days after the notice referring the dispute to the Designated Senior Persons, pursuant to [Section 18.2](#). If, after such time period, the dispute remains unresolved, the Parties shall attempt to resolve the dispute through mediation. The mediator for such dispute shall be an attorney in good standing in the State (the “[Mediator](#)”). The Parties shall attempt in good faith to agree on a Mediator. If the Parties cannot so agree within Fifteen (15) Days after it is determined that the Designated Senior Persons cannot resolve the dispute, the Parties jointly shall petition a judge of the Davidson County Circuit Court to order a list of five qualified Mediators from which the Parties shall strike. The claiming Party shall strike first. After striking is complete, the remaining individual shall serve as Mediator. If the Mediator selected by striking is unable or unwilling to serve or is otherwise disqualified, the previously stricken Mediators shall be designated in inverse order until a Mediator is selected. The Parties shall each bear their own costs with respect to the submission of such dispute to the Mediator and shall bear equally the cost of the Mediator with respect to such dispute.

**Section 18.4. General; Jurisdiction.** Unless the Parties otherwise agree, if mediation as set forth in [Section 18.3](#) does not resolve the dispute within Thirty (30) Business Days from the date the Mediator is selected or such longer period as the Parties may mutually agree, the dispute shall be exclusively and finally settled by the competent courts located in the jurisdiction of Metro which will have exclusive jurisdiction over any dispute between the Parties arising out of or relating to the Agreement, including, without limitation, formation, validity, interpretation, construction, operation, performance, breach and associated remedies, termination or cancellation, and enforcement. The Parties consent to service and jurisdiction and waive any other venue to which they might be entitled by virtue of domicile, habitual residence, or otherwise. The Agreement will be deemed to have been made, executed, and delivered in the State of Tennessee.

The Parties shall be entitled to discover all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the litigation. The Parties may use all methods of discovery available under the Federal Rules of Civil Procedure subject to time limits set forth therein. Each Party shall bear its own attorney fees, expenses, and costs. The award shall include interest at the Bank Rate from the date of any breach or violation of this Agreement as determined in the judicial resolution until paid in full.

**Section 18.5. Provisional Remedies.** No Party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy to protect its rights that may be necessary and that is not otherwise available under this Agreement, including temporary and preliminary injunctive relief and restraining orders and the appointment of a receiver or receiver and manager in connection with the collection and retention of Project Revenue.

**Section 18.6. Tolling.** If a Party receiving a notice of default under this Agreement contests, disputes or challenges the propriety of such notice by making application to the dispute resolution procedure in this [Article 18](#), any cure period that applies to such default shall be tolled for the time period between such application and the issuance of a final award or determination.

**Section 18.7. Technical Dispute Resolution.** Prior to either Party submitting a dispute to a court for resolution, the Parties may agree to submit any technical dispute, designated as such under this Agreement, including any technical dispute with respect to Article 7 that is submitted pursuant to Section 7.7 to the Consultant and once such technical dispute has been submitted to the Consultant then the other dispute resolutions mechanisms provided for in this Article 18 shall not apply. The Consultant shall determine any unresolved disputed items within Thirty (30) Business Days of the submission of such dispute to the Consultant, unless the Consultant has good cause to extend such date for determination. The submission shall be in the form of written statements of position by one or both of the Parties, which statements shall be provided to both the other Party and the Consultant, with each Party having an opportunity to respond to such written statements of the other Party and any requests for statements or information by the Consultant, including in-person meetings. The Parties shall each bear their own costs with respect to the submission of such dispute to the Consultant and shall bear equally the cost of the Consultant with respect to such dispute. The Consultant's award shall be in writing and state the reasons upon which it is based. The decision of the Consultant shall be final and binding on the Parties.

## **ARTICLE 19 MISCELLANEOUS**

**Section 19.1. Notice.** All notices, other communications and Approvals required or permitted by this Agreement shall be in writing, shall state specifically that they are being given pursuant to this Agreement and shall be delivered, sent by facsimile (with hard copy sent via mail), certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

- (a) in the case of Metro:

PROCUREMENT DIVISION  
DEPARTMENT OF FINANCE  
PO BOX 196300  
NASHVILLE, TN 37219-6300  
[PRG@NASHVILLE.GOV](mailto:PRG@NASHVILLE.GOV)

With a copy to:

Metropolitan Government Department of Law  
P.O. Box 196300  
Nashville, TN 37219-6300  
fax: 615-862-6352

- (b) in the case of Parking Company:

LAZ Parking Georgia, LLC  
  
One Financial Plaza, 14<sup>th</sup> Floor  
  
Hartford, CT 06103  
  
Attn: Legal Department

or such other persons or addresses as either Party may from time to time designate by notice to the other. A notice, other communication or Approval shall be deemed to have been sent and received (i) on the Day

it is delivered, or if such Day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or Approval shall be deemed to have been sent and received on the next Business Day, or (ii) on the Fourth (4th) Business Day after mailing if sent by U.S. registered or certified mail.

**Section 19.2. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

**Section 19.3. Amendment.** This Agreement may be modified only by written amendment executed by all Parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

**Section 19.4. Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right. No waiver of any provision of this Agreement shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

**Section 19.5. Severability.** Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable Law. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof. If any provision of this Agreement or the application thereof to any Person or circumstance is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, (i) such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever, and (ii) the Parties shall negotiate in good faith to amend this Agreement to implement the provisions set forth herein. If the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the dispute resolution procedure in [Article 18](#). If, by means of the dispute resolution procedure, the Parties are unable, as a result of applicable Law, to resolve the matter in a manner that effectively entitles Metro to have the same rights after the aforesaid determination of invalidity or unenforceability as before, Metro shall have the right to enact, and cause to come into force, any Law to provide for the same or substantially the same rights as were determined to be invalid or unenforceable.

**Section 19.6. Governing Law.** The validity, construction, and effect of this Agreement and any and all extensions and/or modifications thereof shall be governed by the Laws of the State of Tennessee. Tennessee Law shall govern regardless of any language in any attachment or other document that Parking Company may provide.

**Section 19.7. Submission to Jurisdiction.** Subject to Article 18, any action or proceeding against Parking Company or Metro relating in any way to this Agreement may be brought and enforced in the federal or state courts in Davidson County, Tennessee, and each of Parking Company and Metro hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Service of process on Metro may be made, either by registered or certified mail addressed as provided for in Section 19.1. Service of process on Parking Company may be made either by registered or certified mail addressed as provided for in Section 19.1 or by delivery to Parking Company's registered agent for service of process in the State. If Parking Company is presented with a request for Documents by any administrative agency or with a subpoena duces tecum regarding any Documents which may be in its possession by reason of this Agreement, Parking Company shall give prompt notice to Metro. Metro may contest such process by any means available to it before such Documents are submitted to a court or other third-party; provided, however, that Parking Company shall not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Law, unless the subpoena or request is quashed or the time to produce is otherwise extended.

**Section 19.8. Further Acts.** The Parties shall do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and assurances and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution and/or delivery of this Agreement.

**Section 19.9. Costs.** Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs and expenses incurred in connection with performing and observing its obligations and covenants under this Agreement.

**Section 19.10. Interest.** Any amount payable under this Agreement and not paid when due shall bear interest at a variable nominal rate per annum equal on each Day to the lesser of (a) the Bank Rate then in effect plus 5%, and (b) the maximum lawful rate of interest that may be charged under the Law of the State of Tennessee from the date such payment is due until payment and both before and after judgment.

**Section 19.11. Inurement and Binding Effect.** This Agreement shall inure to the benefit of the Parties and their respective permitted successors and assigns and be binding upon the Parties and their respective successors and assigns.

**Section 19.12. Information, Intellectual Property, Records.**

(a) *Information Ownership.* All Information collected, stored, processed and transmitted as part of the Metered Parking System Operations is and shall always be the sole property of Metro. Any Information provided to the Parking Company and any Representatives, including Information provided by Metro customers or residents or visitors, is only to be used to fulfill the contracted services. Any additional Information that is inferred or determined based on primary Information that is provided to the Parking Company and any Representatives, i.e. "second-order data", is only to be used to fulfill the contracted services. This Information is not to be used for marketing or commercial purposes and the Parking Company and any Representatives assert no rights to this Information outside of fulfilling the contracted services. Storage of this information is not allowed outside United States' jurisdiction. Parking Company hereby waives any and all statutory and common law liens it may now or hereafter have with respect to Metro

Information. Nothing in this Agreement or any other agreement between Metro and Parking Company shall operate as an obstacle to Metro's right to retrieve any and all Metro Information from Parking Company or its agents or to retrieve such Information or place such Information with a third-party for provision of services to Metro, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. Upon Metro's request, Parking Company shall supply Metro with an inventory of Metro Information that Parking Company stores and/or backs up.

(b) *Software License.* Parking Company warrants and represents that it is the owner of or otherwise has the right to perform the Metered Parking Activities as detailed in the Business Plan.

(c) *Information Security Breach Notification.* In addition to the notification requirements in any business associate agreement with Metro, when applicable, Parking Company shall notify Metro of any data breach within twenty-four (24) hours of Parking Company's knowledge or reasonable belief (whichever is earlier) that such breach has occurred ("Breach Notice") by contacting the Metro ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the Information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach as well as specific Information about the data compromised so that Metro can properly notify those individuals whose Information was compromised. Parking Company shall periodically update the Information contained in the Breach Notice to Metro and reasonably cooperate with Metro in connection with Metro's efforts to mitigate the damage or harm of such breach.

(d) *Virus Representation and Warranty.* Parking Company shall not introduce into Metro's systems, network, or infrastructure, any type of software routines or element which is designed to or capable of unauthorized access to or intrusion upon, disabling, deactivating, deleting, or otherwise damaging or interfering with any system, equipment, software, data, or the Metro network. In the event of a breach of this subsection, Parking Company shall compensate Metro for any and all harm, injury, damages, costs, and expenses incurred by Metro resulting from the breach. For Parking Company managed systems, Parking Company shall install and maintain ICSA Labs certified or AV-Test approved anti-virus software and, to the extent possible, use real time protection features. Parking Company shall maintain the anti-virus software in accordance with the anti-virus software provider's recommended practices. In addition, Parking Company shall ensure that: (i) anti-virus software checks for new anti-virus signatures no less than once per Day; and (ii) anti-virus signatures are current and no less recent than two versions/releases behind the most current version/release of the anti-virus signatures for the anti-virus software.

(e) *Copyright, Trademark, Service Mark, or Patent Infringement.*

(i) Parking Company shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against Metro to the extent that it is based on a claim that the products or services furnished infringe a copyright, trademark, service mark or patent. Parking Company shall further indemnify and hold harmless Metro against any award of damages and costs made against Metro by a final judgment of a court of last resort in any such suit. Metro shall provide Parking Company immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together

with all available Information and reasonable cooperation, assistance and authority to enable Parking Company to do so. No costs or expenses shall be incurred for the account of Parking Company without its written consent. Metro reserves the right to participate in the defense of any such action. Parking Company shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon Metro unless approved by the Metro Department of Law Settlement Committee and, where required, the Metro Council.

(ii) If the activities performed under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Parking Company's obligation to satisfy the final award, Parking Company may at its option and expense: (i) procure for Metro the right to continue using the products or services that are the subject of such claim; (ii) replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to Metro, so that they become non-infringing; or (iii) remove the products or discontinue the services and cancel any future charges pertaining thereto; provided; however, that Parking Company will not exercise the removal option above until Parking Company and Metro have determined that the procure and/or replace options are impractical.

(iii) Parking Company shall have no liability to Metro; however, if any such infringement or claim thereof is based upon or arises out of: (x) the use of the products or services in combination with apparatus or devices not supplied or else approved by Parking Company; (y) the use of the products or services in a manner for which the products or services were neither designated nor contemplated; or (z) the claimed infringement in which Metro has any direct or indirect interest by license or otherwise, separate from that granted herein.

(f) *Maintenance of Records.* Parking Company shall maintain documentation for all charges against Metro. The books, records, and documents of Parking Company, insofar as they relate to work performed or money received under this Agreement, shall be maintained for a period of three (3) full Years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by Metro or its duly appointed Representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. All documents and supporting materials related in any manner whatsoever to this Agreement or any designated portion thereof, which are in the possession of Parking Company subcontractor shall be made available to Metro for inspection and copying upon written request from Metro. Said documents shall also be made available for inspection and/or copying by any state, federal or other regulatory authority, upon request from Metro. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the procurement and/or performance of this Agreement. Said records expressly include those documents reflecting the cost, including all Parking Company's or subcontractor's records and payroll records of such Parking Company or subcontractor.

(g) *Monitoring.* Parking Company's activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by Metro, the Department of Finance, the Division of Internal Audit, or their duly appointed

Representatives. Metro shall have the option of reviewing and performing a security assessment of the Information security management practices of Parking Company. Metro shall have the right to conduct such audits by use of its own employees and internal audit staff, or by use of outside consultants and auditors.

(h) *Metro Property.*

(i) Any Metro property, including but not limited to books, records, and equipment that is in Parking Company's possession shall be maintained by Parking Company in good condition and repair, and shall be returned to Metro by Parking Company upon termination of this Agreement. All goods, documents, records, and other work product and property produced during the performance of this Agreement are deemed to be Metro property. Metro property includes, but is not limited to, all documents which make up this Agreement; all other documents furnished by Metro; all goods, records, reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, conceptual drawings, design documents, closeout documents, and other submittals by Parking Company; and, all other original works of authorship, whether created by Metro or Parking Company embodied in any tangible medium of expression, including, without limitation, pictorial, graphic, sculptural works, two (2) dimensional works, and three (3) dimensional works. Any of Parking Company's works of authorship comprised within the work product (whether created alone or in concert with Metro or a third-party) shall be deemed to be "works made for hire" and made in the course of services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other applicable law, such work product shall belong exclusively to Metro. Parking Company grants Metro a non-exclusive, perpetual, worldwide, fully paid up, royalty-free license, with rights to sublicense through multiple levels of sublicenses, to reproduce, make, have made, create derivative works of, distribute, publicly perform and publicly display by all means, now known or later developed, such rights.

(ii) Except as to contracts involving sensitive Information, Parking Company may keep one (1) copy of the aforementioned documents upon completion of this Agreement; provided, however, that in no event shall Parking Company use, or permit to be used, any portion of the documents on other projects without Metro's prior written authorization. Parking Company shall maintain sensitive Information securely and if required by Metro, provide secured destruction of said Information. Distribution and/or reproduction of Metro sensitive Information outside of the intended and Approved use are strictly prohibited unless permission in writing is first received from the Metro Chief Information Security Officer. The storage of Metro sensitive Information to third-party hosted network storage areas, such as Microsoft Skydrive, Google Docs, Dropbox, or other cloud storage mechanisms, shall not be allowed without first receiving permission in writing from the Metro Chief Information Security Officer.

**Section 19.13. No Partnership or Third-Party Beneficiaries.** The Parties acknowledge that Parking Company is performing the Metered Parking Activities as an agent of Metro and that Parking Company at no time owns the Metered Parking Spaces or the Metered Parking System Assets. This Agreement is not in any way to be construed or intended to create fiduciary duties between the Parties as partners. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall be deemed to have knowledge of the other Party, nor shall either Party become liable to any

third-party for any representation, act, or omission of any other Party contrary to the terms of this Agreement or by reason of the negligence or willful misconduct of the other Party. Neither Metro nor Parking Company will have any responsibility for the method by which the other Party accounts for the transactions specified in this Agreement, or the characterization of this Agreement, or of the income or expenses incurred hereunder, for income tax purposes.

**Section 19.14. Cumulative Remedies.** The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided at law or in equity.

**Section 19.15. Counterparts; Facsimile Execution.** This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement shall be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party shall be deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

IN WITNESS WHEREOF, Metro has caused this Agreement to be duly executed on its behalf by its Traffic and Parking Commission pursuant to due authorization of Metro Council and Parking Company has caused this Agreement to be duly executed pursuant to due authorization, all as of the day and year first above written.

METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

BY: \_\_\_\_\_  
PRINTED: \_\_\_\_\_  
ITS: CHAIR, TRAFFIC AND PARKING COMMISSION

FILED:

\_\_\_\_\_  
METROPOLITAN CLERK

APPROVED AS TO AVAILABILITY OF FUNDS:

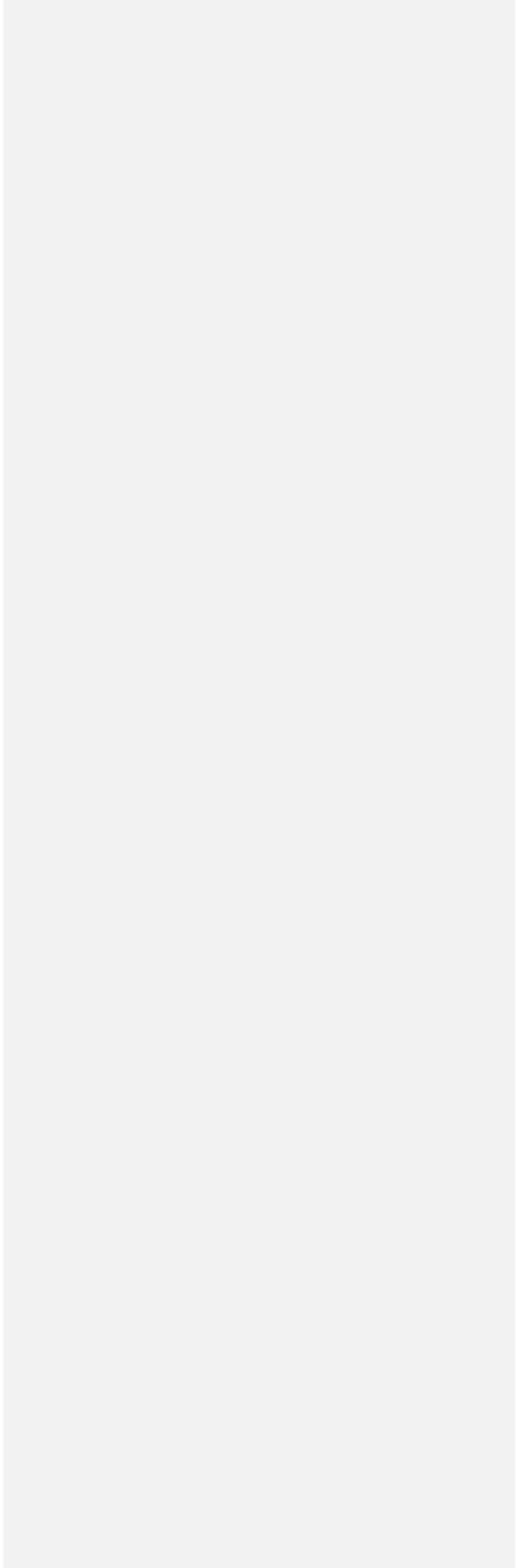
\_\_\_\_\_  
DIRECTOR OF FINANCE

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
ASSISTANT METROPOLITAN ATTORNEY

LAZ PARKING GEORGIA, LLC

BY:  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_



**SCHEDULE 1**  
**METERED PARKING SYSTEM CONTRACTS**

[To be attached from original solicitation.]

[Terri R. do you have this?]

**SCHEDULE 2**  
**OPERATING STANDARDS**

[To be provided by Parking Company]

(And updated within the first 120 days of operation)

**SCHEDULE 3**

**METERED PARKING SYSTEM ASSETS**

(this is a snapshot of existing assets as of the effective date of this agreement and may be subject to change)

[Brad please insert here your map of all of the existing meter locations]

**SCHEDULE 5**  
**PARKING FEES**

~~{To be provided by Parking Company, as approved by Metro.}~~

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Existing Parking fees are as follows:

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- In the Central Business District (CBD) \$2.25 per hour with a 2 hour limit Monday-Saturday 8am-6pm. Sunday is currently free

- Outside the CBD \$1.75 per hour with a 2 hour limit. Monday-Saturday 8am-6pm. Sunday is currently free

- Operating hours for block meters vary for loading zone restrictions in the mornings  
Deadrick St 7am-9am loading zone Meters become operational at 9am  
John Lewis Way and KVB 7am-10am loading zone and Meters become operational at 10am

These fees may be altered as recommended by Parking Company in the future, subject to the approval of the Traffic and Parking Commission.

**SCHEDULE 7**  
**SPECIAL EVENTS**

[To be provided under separate cover.]

<u>EVENT***</u>	<u>DURATION AND APPROXIMATE TIME OF YEAR</u>	<u>METER LOCATION</u>	<u>METERS REQUESTED</u>
None			

<u>NAME OF EVENT</u>	<u>LOCATION</u>	<u>NUMBER OF METERS BAGGED</u>	<u>DAYS OF WEEK</u>	<u>HOURS</u>
<b><u>New Years Eve</u></b>				
	<u>2nd avenue n - Demonbreun to Commerce</u>	<u>10</u>	<u>Tues-Sat</u>	<u>24</u>
	<u>3rd avenue n - Demonbreun to Commerce</u>	<u>4</u>	<u>Tues-Sat</u>	<u>24</u>
	<u>4th avenue - Demonbrien to Commerce</u>	<u>10</u>	<u>Tues-Sat</u>	<u>24</u>
	<u>Rep John Lewis Way - Demonbreun to Commerce</u>	<u>0</u>		
	<u>6th avenue n - Demonbreun to Broadway</u>	<u>0</u>		
	<u>7th avenue n - Demonbrien to Broadway</u>	<u>0</u>		
	<u>8th Avenue n - Demonbreun to Commerce</u>	<u>5</u>	<u>Thur-Sat</u>	<u>24</u>
	<u>9th Avenue n - Demonbrien to Commerce</u>	<u>28</u>	<u>Thur-Sat</u>	<u>24</u>
	<u>Broadway 6th to 7th</u>	<u>15</u>	<u>Thur-Sat</u>	<u>24</u>
	<u>Commerce St - 3rd to 4th</u>	<u>11</u>	<u>Thur-Sat</u>	<u>24</u>
<b><u>4th of July Celebration</u></b>				
	<u>Bank St - 1st to 2nd</u>	<u>13</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>Church St- 1st Avenue N- 2nd Avenue N</u>	<u>5</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>2nd Avenue N - Commerce to Broadway</u>	<u>11</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>Korean Veteran Blvd - 1st to 2nd</u>	<u>6</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>Broadway 6th Avenue N to 7th Avenue N</u>	<u>15</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>3rd Avenue N - Broadway to Commerce</u>	<u>4</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>3rd Avenue N - Commerce to Union</u>	<u>10</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>8th Avenue - Demonbrien to Commerce</u>	<u>5</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>9th Avenue n - Demonbreun to Commerce</u>	<u>28</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>Gay ST - 1st to 2nd</u>	<u>34</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>Korean Veteran Blvd - 2nd to 8th</u>	<u>24</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>2nd Avenue N - Demonbreun to Commerce</u>	<u>10</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>4th Avenue n - Demonbreun to Commerce</u>	<u>10</u>	<u>Fri-Sat</u>	<u>24</u>
	<u>1st Avenue N - Church to Commerce</u>	<u>5</u>	<u>Fri-Sat</u>	<u>24</u>
<b><u>Music City Bowl</u></b>				
	<u>2nd avenue N - Demonbreun to Church</u>	<u>10</u>	<u>Friday</u>	<u>24</u>

<u>3rd Avenue N - Broadway to C commerce</u>	<u>4</u>	<u>Friday</u>	<u>24</u>
<u>4th Avenue n - Broadway to Demonbruen</u>	<u>6</u>	<u>Friday</u>	<u>24</u>

**Battle Of Band**

<u>2nd avenue N - Demonbreun to Commerce</u>	<u>10</u>	<u>Thursday</u>	<u>24</u>
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**Veteran Day Parade**

<u>Broadway - 6th to 7th</u>	<u>15</u>	<u>Friday</u>	<u>24</u>
<u>9th Avenue n - Broadway to Demonbruen</u>	<u>21</u>	<u>Friday</u>	<u>24</u>
<u>5th Avenue n - Commerce to Demobruen</u>	<u>0</u>	<u>Friday</u>	<u>24</u>
<u>4th avenue N - Commerce to Broadway</u>	<u>6</u>	<u>Friday</u>	<u>24</u>
<u>3rd Avenue n - Church to Korean Veteran Blvd</u>	<u>4</u>	<u>Friday</u>	<u>24</u>
<u>2nd avenue n - Church to Korean Veteran Blvd</u>	<u>10</u>	<u>Friday</u>	<u>24</u>

**St Jude Rock & Roll Marathon**

<u>Broadway - 6th to 7th</u>	<u>15</u>	<u>Friday - Sat</u>	<u>24</u>
<u>2nd Avenue n - Commerce to Korean Veteran Blvd</u>	<u>15</u>	<u>Friday - Sat</u>	<u>24</u>
<u>4th avenue s - Commerce to Korean Veteran Blvd</u>	<u>18</u>	<u>Friday - Sat</u>	<u>24</u>
<u>5th Avenue n - Commerce to Korean Veteran Blvd</u>	<u>11</u>	<u>Friday - Sat</u>	<u>24</u>
<u>9th Avenue S - Commerce to Demobreun</u>	<u>28</u>	<u>Friday - Sat</u>	<u>24</u>
<u>12th Avenue s - 12th to Division</u>	<u>6</u>	<u>Friday - Sat</u>	<u>24</u>
<u>Division - 16th to 12th</u>	<u>4</u>	<u>Friday - Sat</u>	<u>24</u>
<u>12th avenue s - Division to 11th</u>	<u>9</u>	<u>Friday - Sat</u>	<u>24</u>
<u>11th Avenue s- 12th to 11th avenue s</u>	<u>24</u>	<u>Friday - Sat</u>	<u>24</u>
<u>James Robertson Pkwy - Rosa Park to 3rd</u>	<u>68</u>	<u>Friday - Sat</u>	<u>24</u>
<u>Union - 3rd to 1st</u>	<u>3</u>	<u>Friday - Sat</u>	<u>24</u>
<u>demonbreun - 2nd to 16th</u>	<u>27</u>	<u>Friday - Sat</u>	<u>24</u>

**Christmas Parade**

<u>Union 2nd to 3rd</u>	<u>3</u>	<u>Saturday</u>	<u>24</u>
<u>2nd Avenue n - Commerce C25 to Union</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
<u>Broadway 6th to 7th</u>	<u>15</u>	<u>Saturday</u>	<u>24</u>
<u>Bank st - 2nd to Gay</u>	<u>13</u>	<u>Saturday</u>	<u>24</u>
<u>4th avenue n - Commerce to Demonbruen</u>	<u>6</u>	<u>Saturday</u>	<u>24</u>
<u>3rd Avenue n - Commerce to Demonbruen</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
<u>2nd Avenue n - Commerce to Demonbruen</u>	<u>15</u>	<u>Saturday</u>	<u>24</u>
<u>9th Avenue s - Broadway to McGavock</u>	<u>28</u>	<u>Saturday</u>	<u>24</u>
<u>1st Avenue n - Broadway to Gay</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>

**CMT Awards**

<u>4th avenue n - James Robertson Pkwy to Charlotte</u>	<u>15</u>	<u>Thurs- Sat</u>	<u>24</u>
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<u>James Robertson Pkwy - 3rd to 4th</u>	<u>10</u>	<u>Thurs- Sat</u>	<u>24</u>
<u>5th Avenue N - Charlotte To James Robertson Pkwy</u>	<u>19</u>	<u>Thurs- Sat</u>	<u>24</u>
<u>Gay St - 5th to James Roberson Pkwy</u>	<u>9</u>	<u>Thurs- Sat</u>	<u>24</u>
<u>James Robertson Pkwy - 4th to Gay</u>	<u>17</u>	<u>Thurs- Sat</u>	<u>24</u>
<b><u>CMA Awards</u></b>			
<u>Broadway 6th to 7th</u>	<u>15</u>	<u>Wednesday</u>	<u>24</u>
<u>4th Avenue s - Broadway to Demonbruen</u>	<u>6</u>	<u>Wednesday</u>	<u>24</u>
<b><u>Live on the Green</u></b>			
<u>Deadrick 3rd to 5th</u>	<u>32</u>	<u>Thursday</u>	<u>24</u>
<u>4th Avenue n - Charlotte to Deadrick</u>	<u>15</u>	<u>Thursday</u>	<u>24</u>
<u>Charlotte 3rd to 4th</u>	<u>7</u>	<u>Thursday</u>	<u>24</u>
<u>James Robertson Pkwy - 3rd to 4th</u>	<u>10</u>	<u>Thursday</u>	<u>24</u>
<u>3rd Avenue n - James Robertson Pkwy to Union</u>	<u>7</u>	<u>Thursday</u>	<u>24</u>
<u>2nd Avenue n - Bank to Union</u>	<u>0</u>	<u>Thursday</u>	<u>24</u>
<b><u>Cherry Blossom Festival</u></b>			
<u>Deadrick 3rd to 4th</u>	<u>17</u>	<u>SATURDAY</u>	<u>24</u>
<b><u>Music City Brew Fest</u></b>			
<u>4TH Avenue S- Broadway To Demonbreun</u>	<u>6</u>	<u>Saturday</u>	<u>24</u>
<b><u>Street Food Festival</u></b>			
<u>Deadrick 3rd to 4th</u>	<u>19</u>	<u>Thursday</u>	<u>24</u>
<b><u>Grand Prix</u></b>			
<u>2nd Avenue N - Korean Veteran Blvd - Broadway</u>	<u>16</u>	<u>Thursday</u>	<u>24</u>
<b><u>Taste Of Music city</u></b>			
<u>Deadrick 3rd to 4th</u>	<u>17</u>	<u>Saturday</u>	<u>24</u>
<u>Charlotte 3rd to 4th</u>	<u>7</u>	<u>Saturday</u>	<u>24</u>
<u>James Robertson Pkwy - 4th to Gay St</u>	<u>17</u>	<u>Saturday</u>	<u>24</u>
<b><u>Making Strides</u></b>			
<u>1st Avenue N - Union to Broadway</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>
<u>2nd Avenue N - Broadway to Union</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
<b><u>Hot Chocolate 5K</u></b>			
<u>Elliston Place - 21st to 25th</u>	<u>81</u>	<u>Saturday</u>	<u>24</u>
<u>25th Avenue N - Park Plaza to West End</u>	<u>13</u>	<u>Saturday</u>	<u>24</u>

	<u>Rosa Park - church to Broadway</u>	<u>6</u>	<u>Saturday</u>	<u>24</u>
	<u>Church ST - 7th to 21st</u>	<u>12</u>	<u>Saturday</u>	<u>12</u>
<b><u>Undie Run</u></b>	<u>Demonbreun - 12th to 16th</u>	<u>20</u>	<u>Saturday</u>	<u>24</u>
<b><u>Predators 5K</u></b>	<u>Demonbreun 5th to Music Square West</u>	<u>27</u>	<u>Saturday</u>	<u>24</u>
<b><u>Pride Festival</u></b>	<u>9th Avenue N - Commerce to Demonbreun</u>	<u>28</u>	<u>Saturday</u>	<u>24</u>
	<u>8th Avenue N - Commerce to Demonbreun</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>
	<u>4th Avenue N - Commerce to Demonbreun</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
	<u>2nd Avenue N - Union to Demonbreun</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
	<u>Deadick 3rd to 4th</u>	<u>19</u>	<u>Saturday</u>	<u>24</u>
<b><u>Rudolph Run</u></b>	<u>Broadway - 1st to 6th</u>	<u>0</u>	<u>Saturday</u>	<u>24</u>
	<u>Church 1st to 2nd</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>
	<u>1st Demonbreun to Union</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>
	<u>2nd Avenue n- Demonbruen to Bank</u>	<u>20</u>	<u>Saturday</u>	<u>24</u>
	<u>3rd Avenue - Demonbreun to Broadway</u>	<u>6</u>	<u>Saturday</u>	<u>24</u>
	<u>4th Avenue Broadway To Commerce</u>	<u>6</u>	<u>Saturday</u>	<u>24</u>
<b><u>Christmas Tree Lighting</u></b>	<u>Union 1st to 3rd</u>	<u>3</u>	<u>Friday</u>	<u>24</u>
	<u>2nd Avenue - Bank to Union</u>	<u>5</u>	<u>Friday</u>	<u>24</u>
<b><u>Shoney 5K</u></b>	<u>3rd Avenue S - Broadway to Molly</u>	<u>5</u>	<u>Saturday</u>	<u>24</u>
	<u>Demonbreun 3rd to Division</u>	<u>27</u>	<u>Saturday</u>	<u>24</u>
<b><u>Art Crawl</u></b>	<u>5th Avenue N - Church to Union</u>	<u>12</u>	<u>1st Saturday of Each month - June- September</u>	<u>24 hours</u>
<b><u>CMA Music Festival</u></b>	<u>4th avenue - Korean Veteran Blvd- Commerce</u>	<u>10</u>	<u>Monday- Saturday</u>	<u>24</u>
	<u>Broadway 6th to 7th</u>	<u>15</u>	<u>Monday- Saturday</u>	<u>24</u>
	<u>Commerce St - 3rd to 4th</u>	<u>11</u>	<u>Monday- Saturday</u>	<u>24</u>

<u>3rd Avenue - Broadway to Commerce</u>	<u>6</u>	<u>Monday- Saturday</u>	<u>24</u>
<b><u>Southern Festival Of Books</u></b>			
<u>Capital- Church to Union</u>	<u>21</u>	<u>Wednesday- Saturday</u>	<u>24</u>
<u>Deadrick -5th to 6th</u>	<u>16</u>	<u>Wednesday- Saturday</u>	<u>24</u>
<b><u>Boswell Toy Run</u></b>			
<u>2nd Avenue - Broadway to Union</u>	<u>10</u>	<u>Saturday</u>	<u>24</u>
<b><u>Music City Triathlon</u></b>			
<u>Broadway</u>		<u>Friday - Saturday</u>	<u>24</u>
<b><u>Nascar Burn on Broadway</u></b>			
<u>1st demonbreun to church</u>	<u>5</u>	<u>Friday</u>	<u>24</u>
<b><u>American Artisan Festival</u></b>			
<u>4th Avenue S - Korean Veteran Blvd - Broadway</u>	<u>6</u>	<u>Friday - Saturday</u>	<u>24</u>

**SCHEDULE 10**

**CAPITAL IMPROVEMENTS**

[To be provided by Parking Company, as approved by Metro.]

**SCHEDULE 11**

**BUSINESS PLAN**

[To be provided by Parking Company within 30 days of Executed Contract.]

## SCHEDULE 12

### PERFORMANCE METRICS

At Metro's discretion, but no sooner than six (6) months after the Effective Date, Parking Company shall provide specific metric recommendations to Metro pertaining to the performance metrics. Upon approval, these metrics will be incorporated into the contract as Schedule 12, and reviewed every six months. During the Annual Meeting conducted pursuant to Section 8.5(b), there will be a formal annual performance review, at which time the metrics may be modified with approval of the Parking Company and Metro.

- The Parking Company's commitment to making more payment options available and convenient for the customers of the system;
  - Pay by cell phone app
  - Pay by credit
  - Pay by bill
  - Third party app integration payment options
  - In-vehicle payment solutions
  - Automated payment solutions
- The Parking Company's commitment and ability to provide high levels of customer service to parking customers;
  - Response timeframe
  - Resolution timeframe
  - Centralized customer service for entire parking/ticketing/collections process
  - Customer satisfaction rating as measured by surveys completed by the Metered Parking System customers
- The Parking Company's commitment to promotion and education of Metro's Metered Parking System
  - Education
  - Outreach
  - Parking incentives
  - Signage
  - Advertisements
  - Website
  - Social Media
- The Parking Company's commitment to a seamless parking experience for customers
  - Real time availability information
  - Digital Signage
  - Integration of availability information with private parking facilities
  - Integration with other modes of transportation
- The Parking Company's commitment and ability to effectively partner with Metro, Metro contractors, and Traffic and Parking Commission on an ongoing basis for purposes of addressing the continuing needs, concerns, and objectives of the Metropolitan Government's parking management system;
  - Monthly Metered Parking System health reports
  - Quarterly recommendations to increase the efficiency of the Metered Parking System
  - Ability to develop ad hoc reports as requested

- Back office integration with existing court systems such as Justice Information System and Lexis/Nexis
- The Parking Company's ability to collect and analyze data to make recommendations for system optimization.
  - Dashboards and or on demand reports to show
    - occupancy,
    - vacancy,
    - peak usage,
    - hot spots,
    - underutilized areas,
    - average dwell times,
    - average parking session cost,
    - method of payment,
    - areas for improvement,
    - operational trends,
    - parking trends and usage during special events, etc.
  - Ability to conduct occupancy studies
  - Ability for Metro to run ad hoc reports as needed
- The Parking Company's experience and availability of equipment and resources to initially install and quickly scale the Metered Parking System as needed;
  - Initial Implementation timeframe in days
  - Days to add additional fully operational units
- The Parking Company's ability to increase operational efficiencies, system performance and parking compliance.
  - Metered Parking System utilization
  - Parking turnover rates
  - Efficacy of enforcement tools
  - Efficacy of compliance tools
- The Parking Company's response time required to identify and address issues with Metered Parking System infrastructure to reduce the number of meters that are broken or otherwise out of service;
  - Meter operability
  - Meter downtime
  - Automatic problem detection
- The Parking Company's ability to automate the enforcement process.
  - Compliance increase
  - Real time parking validation
  - Integration and coordination with existing enforcement regulations
  - Integration and coordination with existing citation systems
- The Parking Company's commitment to developing solutions that will increase parking turnover and parking availability. (Changes to parking hours of operation and rates are subject to approval by Traffic and Parking Commission.)
  - Duration of stay- flexible minimum / maximum durations
  - 15-20% available parking spaces at any given time
- The Parking Company's commitment to transparency through the publication of open data sets pertaining to parking availability and usage trends;
  - # of published open data sets- historical
    - Parking Meter policy
    - Parking Violations
    - Parking spot GIS layer
    - Parking meter GIS layer

- Other as yet unidentified data sets
- # of published open data sets – real time
  - Parking spot availability and cost
  - Spots Currently in violation
  - Other as yet unidentified data sets
  - Parking meter locations
  - Detailed revenue transactions
- The Parking Company's ability to remotely program and update devices
  - System downtime
  - Remote policy and or operational updates (rates, hours, etc.)

**Schedule 13**  
**Key Performance Indicators**

In addition to the agreed upon annual base management fee as set forth in section 2.2 of the Agreement, there shall be an opportunity for the Parking Company to be paid an “Additional Performance Fee” on an annual basis of \$30,000 based on mutually agreed upon Key Performance Indicators (KPI’s). The additional KPI based Performance Fee shall be based on the following criteria.

- Contract Year 1: KPI Performance Fee of \$30,000, shall be awarded based on the successful implementation the Business Plan as defined as schedule11 in the Parking Management Agreement.
  
- Contract Year 2 and Beyond: Beginning in Year 2 of the Agreement; the Parking Company shall have the ability to earn an additional \$30,000 annual KPI Performance Fee based on the following criteria. Each criterion below shall have an individual value of \$7,500, amounting to \$30,000 total annual potential.
  1. Operating Budget: Successful management of the annual operating budget resulting in actual expenses being within two percent (2%) of the approved annual operating budget. The annual operating budget shall include Metro’s approved fiscal year operating budget as well as all approved expense adjustments.
  2. Accuracy of Parking Citations: The Parking Company shall maintain a ninety-five percent (95%) accuracy rate of citations that are transferred to the Traffic Violations Bureau (TVB) of the Circuit Court Clerk. Accuracy rate shall be defined as the percentage of all citations initiated by the Parking Company that are deemed valid once transferred to the TVB.
  3. Meter Uptime: The Parking Company shall maintain a 96% Uptime of all Parking Meters. The uptime shall be based on the total number of meters (or pay station devices) multiplied by the total number of operating hours as defined by Metro and set forth in the Agreement. In addition, there shall be no more than 5% of pay stations down at any one time.
  4. Meter Maintenance Response Time: The Parking Company shall maintain a two-hour response time to service all meters that are out of service. The two-hour response time shall include the initial field diagnostics and Parking Company’s attempt to repair or reset the device once reported as being off-line or in need of service. The response time shall also be defined as two-hours within normal business working hours defined as Monday-Saturday from 8:00 a.m. to 6:00 p.m. After hours will be serviced within two-hours of the next business day. If hours and days of operation are adjusted, the measurement will adjust to reflect the new operation.

The parties understand and acknowledge that this Schedule will be subject to adjustment if/when the parking program is updated.

**Schedule 14**

Lease of Premises

**Schedule 15**

Fee Structure for Reimbursement if Parking Company's Employees are used for Special Events

The cost of any additional workers or labor resources needed for any Special Events or traffic control outside of the normal course of operations as defined in Schedule 11, which will be billed by Parking Company to Metro at the agreed upon Special Event Rate of \$29.00/Hour for the regular rate and \$40.00/Hour for the overtime rate, subject to an annual increase and changes in applicable law.